



May 25, 2017

By hand delivery

Bureau of Land Management
Nevada State Office
1340 Financial Boulevard
Reno, Nevada 89502-7147

RECEIVED

MAY 25 2017

BLM NVSO IAC

Re: Protest of June 2017 lease sale

To Whom It May Concern:

Please accept and fully consider this timely protest of the Nevada BLM's June 2017 lease sale. Due to broad concerns with the BLM's failure to address lands with wilderness characteristics, conflicts with other resources and the lack of oil and gas potential in the proposed parcels, The Wilderness Society previously proposed deferral of this sale. Our comments on the preliminary EA are attached and incorporated by reference as Exhibit 1. In this protest, we are not only reiterating our concerns with the process leading up to this lease sale but also protesting the sale of specific lease parcels.

This protest challenges BLM's Environmental Assessment (EA), DOI-BLM-NV-B020-2017-0002-EA, and the agency's decision to proceed with the sale of new leases located in the Battle Mountain District. We specifically protest the following parcels, referencing the resource-focused discussions set out below:

For lands with wilderness characteristics:

NV-17-06-053	NV-17-06-054	NV-17-06-055	NV-17-06-056
NV-17-06-057	NV-17-06-060	NV-17-06-061	NV-17-06-063
NV-17-06-064	NV-17-06-065	NV-17-06-083	

For grouse:

- NV-17-002, -014, -015, -029, -034, -035, -036 thru -041, -059 and -062

For water resources:

- NV-17-6-004, -005, -006, -007, -008, -009, -011, -012, -013, -014, -016, -017, -018, -020, -021, -022, -037, -038, -039, -040, -069, -070, -073, -074, -075, -076, -077, -078, -079, -080, -081, -082, -084, -085, -086, -087, -088, -089, -090, -098, -099, -101 and -102.

Interests of The Wilderness Society

The Wilderness Society ("TWS") has a long-standing interest in the management of Bureau of Land Management lands in Nevada and engages frequently in the decision-making processes for land use planning and project proposals that could potentially affect wilderness-quality lands and other important natural resources managed by the BLM in Nevada, including in the ongoing revision of the Battle Mountain Resource Management Plan and other oil and gas lease sales. TWS members and staff enjoy a myriad of recreation opportunities on BLM-managed public lands, including hiking, biking, nature-viewing, photography, and the quiet contemplation in the solitude offered by wild places. Founded in 1935, our mission is to protect wilderness and inspire Americans to care for our wild places.

Authorization to File This Protest

As Senior Counsel and Director of The Wilderness Society's BLM Action Center, I am authorized to file this protest on behalf of The Wilderness Society and its members and supporters.

Protest Issues

I. Inclusion of Additional Alternatives and Lease Stipulations.

At the outset, we wanted to acknowledge the inclusion of additional alternatives above and beyond the proposed action and no action. We appreciate the BLM considering a range of alternatives that considers not leasing, deferring certain lease parcels and adding lease stipulations to incorporate additional protective measures. These approaches are consistent with the agency's authority and discretion. Overall, we cannot support the alternative that BLM is proposing in the EA and Finding of Significant Impact, because lease parcels should be deferred and/or more protect measures included in leases that are issued. At the same time, we do support the acknowledgment that the agency can add resource protections in new lease stipulations.

II. Lands with Wilderness Characteristics.

In our comments on the preliminary EA, we raised major concerns with BLM's failure to evaluate citizen submissions of lands with wilderness characteristics, update lands with wilderness characteristics inventories, or evaluate impacts to wilderness resources and alternatives to mitigate those impacts. BLM did not resolve any of our concerns in the revised EA, as detailed below. BLM must defer from oil and gas leasing all lands that may possess wilderness characteristics until the agency updates its inventory of this resource in the Battle Mountain District, particularly areas for which citizens have submitted inventory information that BLM has not yet responded to. Given the antiquated management plans governing the Battle Mountain District, the fact that BLM is currently revising its resource management plan for the District, and the low potential for oil and gas development in the District, which makes leasing unnecessary and unlikely to produce revenue, this is the only appropriate path forward.

- a. BLM has failed to respond to significant new information submitted by the public regarding lands with wilderness characteristics.**

The following parcels are all or partially within the Sulphur Springs LWC unit submitted by Friends of Nevada Wilderness:

NV-17-06-053	NV-17-06-054	NV-17-06-055	NV-17-06-056
NV-17-06-057	NV-17-06-060	NV-17-06-061	NV-17-06-063
NV-17-06-064	NV-17-06-065	NV-17-06-083	

As we stated in our comments on the preliminary EA, Friends of Nevada Wilderness submitted inventory information to BLM in June 2016 for the Sulphur Springs area (attached to this protest as Exhibit 2). That inventory information meets the minimum standards for review of new information set forth in BLM Manual 6310:

- i. a map of sufficient detail to determine specific boundaries of the area in question;
- ii. a detailed narrative that describes the wilderness characteristics of the area and documents how that information substantially differs from the information in the BLM inventory of the area's wilderness characteristics; and
- iii. photographic documentation.

BLM Manual 6310 at .06(B)(1)(b). When BLM receives information that meets these minimum standards, the agency is directed to review the information "as soon as practicable," "make the findings available to the public," and "retain a record of the evaluation and the findings as evidence of the BLM's consideration." *Id.* at .06(B)(2).

BLM has not yet responded to the inventory information for Sulphur Springs submitted by Friends of Nevada Wilderness. The revised EA states:

BLM used the FNW inventory to focus on areas they identified, while conducting the agency's own inventory as required. BLM determined that while 12 of 14 units suggested by FNW did have wilderness characteristics, two including the Sulphur Springs unit did not; and updated our GIS layer accordingly.

EA at 221. Sulphur Springs was not one of the 14 units that Friends of Nevada Wilderness submitted to BLM in 2013 and which the agency responded to in its 2013 inventory update. See BLM LWC Summary for the Battle Mountain District, attached to this protest as Exhibit 3. In fact, Friends of Nevada Wilderness inventoried the Sulphur Springs unit in 2015, and submitted the inventory to BLM in 2016, as stated in our comments on the preliminary EA. Therefore, BLM has not responded to the significant new information provided by Friends of Nevada Wilderness regarding the wilderness resources of the Sulphur Springs area.

As stated in the revised EA: "BLM policy requires considering external input but ultimately relying on the agency's own inventory." EA at 222. This is true; however, in this case BLM has not even considered the external input provided by Friends of Nevada Wilderness. The EA goes on to assert: "BLM's inventory did not find wilderness characteristics on any of the proposed parcels." *Ibid.* If this is true, BLM has provided no documentation that the agency reviewed the

Sulphur Springs LWC unit or made findings on whether or not the area possesses wilderness characteristics. Based on the other statements in the revised EA cited above, it appears clear that BLM has not reviewed the external input received on the Sulphur Springs LWC unit since the agency could not possibly have done that in 2013 given that Friends of Nevada Wilderness inventoried the area in 2015 and there was no BLM inventory on record at that time absent the 1979 Initial Inventory Decisions.

The decision to ignore public input on affected wilderness resources likely contravenes the “hard look” requirement of the National Environmental Policy Act (NEPA). See 42 U.S.C. § 4332(2)(C). Numerous courts have applied the hard look mandate to overturn agency decisions that ignored substantive, relevant wilderness information provided by the public, including citizen-submitted wilderness inventories. See, e.g., *Or. Natural Desert Ass’n v. Rasmussen*, 451 F. Supp. 2d 1202, 1211-13 (D. Ore. 2006) (holding that BLM violated the hard-look requirement of NEPA when it dismissed a citizen-submitted inventory “[w]ith a broad brush”); *SUWA v. Norton*, 457 Supp. 2d 1253, 1263-65 (D. Utah 2006) (“...Utah BLM ignored significant new information...information provided by the Southern Utah Wilderness Alliance...presented a textbook example of significant new information about the affected environment (the wilderness attributes and characteristics...)”); *Biodiversity Conservation Alliance*, 183 IBLA 97, 2013 IBLA Lexis *1, *28-*29 (2013) (rejecting a claim that BLM violated the hard-look requirement where BLM “specifically evaluated citizens’ wilderness proposals [so that the citizens’ proposals had] become administratively final...”).

Here, BLM has not taken the requisite “hard look” at how the sale of the parcels listed above would affect wilderness resources in the Battle Mountain District, as required by the cases cited above. The Battle Mountain District has disregarded substantive new information submitted by the public describing wilderness values that would be affected by the lease sale. As discussed above, although BLM is not obligated to agree with any public assessment of the wilderness values affected by the lease sale, NEPA requires that the agency at least take a hard look at a complete and accurate inventory of wilderness values in the planning area. BLM cannot be said to have taken the requisite hard look where, as here, the agency ignored significant new information.

Furthermore, even if the agency were found to have considered, and decided against, an inventory update, the decision not to update would likely be found arbitrary and capricious under the Administrative Procedure Act (APA). See 5 U.S.C. § 706. Since its most recent wilderness inventory update, the Battle Mountain District has failed to respond to multiple citizen-submitted wilderness inventories for lands under its jurisdiction, all of which meet the “minimum standards for further review” as defined by BLM Manual 6310. See BLM Manual 6310 at .06(B)(1). Since BLM’s last inventory update in 2013, Friends of Nevada Wilderness has submitted 25 additional LWC inventories. Additionally, the Battle Mountain District has yet to respond to comments submitted by Friends of Nevada Wilderness in June 2016 that identified deficiencies with four of BLM’s LWC inventories. Nor has the most recent inventory for the Battle Mountain District been incorporated into the land use plans that are being applied to the June 2017 Lease Sale. Surely, BLM cannot conduct a deficient wilderness inventory, ignore citizen inventories and comments submitted in response to its inventory, and then rely on its inventory to make project-level decisions that could compromise wilderness quality lands within its jurisdiction. Since the agency has no obligation to involve the public during its inventory process, the duty to maintain a current inventory, which includes the obligation to consider

updates before project-level decisions, was doubtlessly designed to safeguard wilderness lands, as well as the public interest in protecting those lands. Given the volume of comments and inventories that the Battle Mountain District has yet to respond to, any agency decision not to update its existing inventory in light of this information would likely constitute an abuse of agency discretion under the APA.

BLM must defer all of these parcels until the agency has updated its inventory for the Sulphur Springs area in response to the significant new information submitted by Friends of Nevada Wilderness. For all areas that BLM finds to possess wilderness characteristics, BLM must defer leasing until the Battle Mountain RMP revision is complete and the agency has made management decisions for those lands consistent with BLM Manual 6320.

- b. BLM must update its lands with wilderness characteristics inventory for all oil and gas lease parcels prior to offering them for sale because the governing RMPs for the Battle Mountain District are too outdated to tier NEPA to.**

The Tonopah and Shoshone-Eureka Resource Management Plans were last revised in 1997 and 1986, respectively. Thus, BLM is tiering to environmental analysis that is 20-30 years old in analyzing this lease sale. A great deal of resource information has changed since then, including public lands resources that must be re-inventoried in order to be considered maintained as required by FLPMA. The EA itself documents that that more than half of the proposed lease parcels conflict with important public lands resources which can not be avoided with stipulations in the existing RMPs, leading BLM to consider new stipulations for lease parcels. BLM must therefore update its inventory of wilderness resources across the Battle Mountain District prior to offering new oil and gas leases.

Lands with wilderness characteristics are one of the resources of the public lands that must be inventoried under the Federal Land Policy and Management Act (FLPMA). 43 U.S.C. § 1711(a); see also *Ore. Natural Desert Ass'n v. BLM*, 625 F.3d 1092, 1122 (9th Cir. 2008) (holding that “wilderness characteristics are among the ‘resource and other values’ of the public lands to be inventoried under § 1711”). Instruction Memorandum 2011-154 directs BLM to consider lands with wilderness characteristics in land use plans and when analyzing projects under NEPA. The IM promulgates current agency policy for considering the wilderness characteristics on public lands as part of its multiple-use mandate in developing and revising land use plans *and when making subsequent project level decisions*, consistent with FLPMA. The IM directs BLM to “conduct and maintain inventories regarding the presence or absence of wilderness characteristics, and to consider identified lands with wilderness characteristics in land use plans and when analyzing projects under [NEPA].” BLM Manual 6310 directs BLM on how to conduct lands with wilderness characteristics inventories in compliance with FLPMA and agency policy.

BLM Manual 6310 requires BLM to consider whether to update or conduct a wilderness characteristics inventory when a project that may impact wilderness characteristics is undergoing NEPA analysis, when the public identifies wilderness characteristics as an issue in a NEPA process, and/or when the public submits new information concerning resource conditions. BLM Manual 6310 at .06(A). We identified lands with wilderness characteristics as an issue in this NEPA process in our comments on the preliminary EA; therefore, BLM must consider updating wilderness characteristics inventory as part of this NEPA process. The EA includes no analysis of lands with wilderness characteristics but rather simply dismisses the resource as “not

present". EA at 27. Because BLM does not have a current inventory of lands with wilderness characteristics for the Battle Mountain District, as detailed in our comments on the preliminary EA and this protest, this is an inappropriate dismissal of this resource and is in violation of the agency's inventory obligations under FLPMA.

BLM must analyze impacts to lands with wilderness characteristics and consider alternatives to mitigate impacts when evaluating lease parcels to be offered for sale. BLM does not have an updated, policy-compliant LWC inventory for all of the parcels proposed for lease in this sale. The Battle Mountain District completed some LWC inventory updates in 2012-2013 as part of the ongoing Battle Mountain Resource Management Plan (RMP) revision. BLM's Lands with Wilderness Characteristics Summary document (attached to this protest in Exhibit 3) states that BLM identified all potential LWC units in the planning area, but then conducted almost no new inventory work, instead relying primarily on the 1980 Nevada BLM Intensive Wilderness Inventory:

Existing BLM inventories were also reviewed to determine if their conclusions were still valid including the BLM Nevada Initial Inventory Decisions of 1979 and the Nevada BLM Intensive Wilderness Inventory of 1980. **For most inventory units, these conclusions were still valid and the inventory is considered maintained.**

LWC Summary at 3 (emphasis added). In fact, BLM conducted field inventory for only 14 units as part of the 2012-2013 inventory update, finding 215,200 acres of LWC in a 10.5 million-acre planning area. *Ibid.* The revised EA states that after completing the 2013 review of the 14 Friends of Nevada Wilderness LWC inventory submissions, the RMP was put on hold and that "The District intends to update the inventory again in 2017, and will follow through with formal documentation." EA at 221. BLM is planning to work on updating the LWC inventory starting this year, which shows that BLM acknowledges its inventory is out of date. BLM should defer oil and gas leasing until the updated inventory work is complete.

As stated above, under FLPMA, BLM must maintain a current wilderness inventory for public lands under its jurisdiction. Furthermore, BLM must comply with its own policies that detail how to comply with FLPMA obligations on conducting inventories for wilderness characteristics and considering those inventories in oil and gas leasing. In addition to IM 2011-154 and BLM Manual 6310, BLM's leasing guidance, IM 2010-117, requires the agency to:

review parcels in light of the most current national and local program-specific guidance to *determine availability of parcels for leasing and/or applicable stipulations* (e.g., to address conservation strategies and protect archaeological resources, traditional cultural properties, paleontological resources, specially designated areas on or near BLM-administered lands, sensitive species, watersheds, fisheries and wildlife habitat, visual resources, air quality, and *wilderness qualities*).

(emphases added).

Elsewhere, BLM regularly defers proposed lease parcels when, as here, updated information on wilderness characteristics is not available to inform lease parcel analysis and land use planning is ongoing. For example, the Bighorn Basin District Office in Wyoming deferred several parcels

from Wyoming BLM's August 2013 lease sale because they overlapped with "Lands with Wilderness Characteristics inventory area" while BLM completed the RMP revision. DOI-BLM-WY-R010-2013-0014-EA at 4-37.

Similarly, the White River Field Office in Colorado deferred leasing in areas identified as potential lands with wilderness characteristics while the agency updated its inventory:

To comply with this guidance, the WRFO did an initial assessment of the WRFO resource area and identified areas that have the potential to meet the criteria for Lands with Wilderness Characteristics. Parcels initially identified for the May 2011 lease sale containing any portions of lands that fell within these potential areas were deferred both to allow the BLM to take a closer look at these areas and to allow for another public comment period in which the new policy and the evaluation of these parcels could be discussed.

DOI-BLM-CO-110-2011-0056-EA at 3.

The Battle Mountain District must follow suit, and as required by FLPMA and associated policies, defer all lease parcels that may possess wilderness characteristics until BLM can complete updated LWC inventories for those areas. At a minimum, this must include the areas for which BLM has received new LWC inventory information from Friends of Nevada Wilderness and areas described below that we identified in our comments on the preliminary EA as having a high likelihood of meeting the agency's criteria for lands with wilderness characteristics. We are including maps of these areas in Exhibit 4.

- The Big Smoky Valley contains several polygons of contiguous unroaded BLM lands greater than 5,000 acres in size that may contain wilderness characteristics. BLM did not inventory any of the potential units in the Big Smoky Valley in its 2013 inventory update. It is unclear if this area has ever been inventoried; if so, those inventories are likely at least several decades old and are not conducted according to guidance in Manual 6310. By any standard, the existing inventory is out-of-date. Parcels 4-14 and 16-32 all overlap with potential lands with wilderness characteristics in the bottoms and alkali flats of the upper Big Smoky Valley in both Lander and Nye Counties and should be deferred until inventories are completed.
- Parcels 69-82, 84-89, 98-99, and 101-103 are all located in the Diamond Valley in northern Eureka County. These parcels overlap with the Diamond Valley alkali flat, an area that is highly likely to meet the criteria for lands with wilderness characteristics because of its large size of over 90,000 acres of contiguous unroaded BLM lands. It is unclear if this area has ever been inventoried; if so, those inventories are likely at least several decades old and are not conducted according to guidance in Manual 6310. By any standard, the existing inventory is out-of-date. The parcels in the Diamond Valley (listed above) should be deferred until updated lands with wilderness characteristics inventories can be completed.
- Parcels 52 and 56 overlap with a portion of the Sulphur Springs Range south of Bailey Pass in northern Eureka County. A contiguous block of over 5,000 unroaded acres of BLM lands exists in this area that could meet the additional criteria for lands with

wilderness characteristics . It is unclear if this area has ever been inventoried by BLM; if so, those inventories are likely at least several decades old and are not conducted according to guidance in Manual 6310. By any standard, the existing inventory is out-of-date.

- The **Diamond Mountains** in Eureka County also contain large blocks of contiguous unroaded BLM lands that are likely to meet the criteria for lands with wilderness characteristics. It is unclear if this area has ever been inventoried, although the Ely District may have recently conducted some inventories in the Diamond Mountains that are contiguous with lands on the west side of the Diamond Mountains that overlap with parcels in this sale. Parcels 92-96 and 104-105 overlap with contiguous unroaded lands in the Diamond Mountains that may meet the criteria for lands with wilderness characteristics as defined in Manual 6310. BLM must defer these parcels until updated inventories are completed.
- The BLM lands that make up White Cloud Peak and Dave Keane Mountain in the Fish Creek Range southwest of Eureka are highly likely to contain contiguous blocks of unroaded BLM lands that meet the criteria for lands with wilderness characteristics. There are some large polygons of unroaded lands in the Fish Creek Range. Parcels 42-49 and Parcel 66 all overlap with potential lands with wilderness characteristics . Again, it is unclear if these lands have ever been inventoried by BLM for the presence of wilderness characteristics. However, these lands have not been inventoried recently, and existing inventories for these lands, if they exist, are likely more than 30 years old. BLM must defer these parcels until it is able to conduct a thorough and updated inventory of lands with wilderness characteristics in the Fish Creek Range under guidance outlined in Manual 6310.

For all areas that BLM finds to possess wilderness characteristics, BLM must defer leasing until the Battle Mountain RMP revision is complete and the agency has made management decisions for those lands consistent with BLM Manual 6320. The examples above illustrate BLM's authority and discretion to defer parcels while land use planning is ongoing.

c. Offering the lease parcels in the Battle Mountain District that may possess wilderness characteristics would violate NEPA.

BLM has not evaluated a reasonable range of alternatives for protecting the wilderness characteristics of parcels in the Battle Mountain District. Under NEPA, BLM must consider a broad range of alternatives to mitigate environmental impacts. 40 C.F.R. § 1502.14(a); *see also Theodore Roosevelt Conservation P'ship v. Salazar*, 661 F.3d 66, 72-73 (D.C. Cir. 2011) (requiring BLM to consider a reasonable range of alternatives for oil and gas activity); IM 2010-117 (requiring consideration of "alternatives to the proposed action that may address unresolved resource conflicts."). Additionally, under current policies, BLM must fully "consider" wilderness characteristics during planning actions and evaluate a range of measures to protect wilderness characteristics during the leasing process, including measures not contained in existing RMPs. *See* IM 2011-154 at Att. 2; IM 2010-117 at III. E., F.

A “rule of reason” is used to determine if an adequate range of alternatives have been considered; this rule is governed by two guideposts: (1) the agency’s statutory mandates; and (2) the objectives for the project. *New Mexico ex rel. Richardson*, 565 F.3d at 708. Here, there is no doubt that BLM’s legal mandates under FLPMA and NEPA require it to fully consider the protection of wilderness values, and under IM 2010-117, the agency must treat the “protection of other important resources and values” as an equally important objective to leasing.

Yet, in the EA, the BLM has failed to evaluate an adequate range of alternatives that would protect the wilderness characteristics of parcels in the Battle Mountain District from the impacts of the lease sale. Such alternatives include offering the parcels with NSO stipulations or deferring the parcels. Because the BLM has not considered those alternatives, or additional alternatives to protect the wilderness characteristics of the proposed parcels, it must defer the parcels from the lease sale.

III. No Reasonable Belief Lease Sale Parcels Will Be Developed.

BLM must develop alternatives that satisfy the “purpose and need” for the project. 40 C.F.R. § 1502.13. Here, BLM justifies the purpose and need for the sale in part on responsibilities established by the Mineral Leasing Act (MLA). EA at 9. The MLA directs BLM to hold periodic oil and gas lease sales for “lands...which are known or believed to contain oil or gas deposits...” 30 U.S.C. § 226(a). These sales are supposed to foster responsible oil and gas development, which lessees must carry out with “reasonable diligence.” 30 U.S.C. § 187; *see also* BLM Form 3100-11 § 4 (“Lessee must exercise reasonable diligence in developing and producing...leased resources.”). However, the Additional Resources Protection Alternative does not satisfy the purpose and need for the lease sale, and as a consequence, BLM must adopt the no-action alternative.

a. The EA lacks “reasonable assurance” that the proposed parcels “are known or believed to contain oil or gas deposits.”

The EA provides no evidence that the proposed parcels contain oil or gas deposits, as required by the MLA. 30 U.S.C. § 2269(a); *see also Vessels Coal Gas, Inc.*, 175 IBLA 8, 25 (2008) (“It is well-settled under the MLA that competitive leasing is to be based upon reasonable assurance of an existing mineral deposit.”). In fact, there is abundant evidence to the contrary – that the lands encompassed by the parcels are wholly lacking in marketable oil and gas resources. The Reasonably Foreseeable Development (RFD) section of the EA expressly acknowledges the “highly speculative” nature of the leases located in the Tonopah FO:

Based on past history and considering advancements in drilling and well stimulation techniques, it would be highly speculative to assume that production wells and additional oil fields would be developed within the TFO in areas other than Railroad Valley in the eastern part of the field office area, where the potential is moderate to high and where current well fields exist.

EA at 19-20. Similarly, as to the parcels in the Mount Lewis Field Office, the EA provides:

Since 2003, there have been only four exploration wells authorized in the MLFO. The last of these was drilled in 2013. All four wells have since been plugged. The potential for oil and gas exploration and production in the MLFO can also be considered low.

EA at 20. In fact, the leases being proposed for this sale are so speculative, and the likelihood of exploration and development so remote, the EA predicts the same amount of surface disturbance under each of the action alternatives. EA at 2-3. In sum, the EA contains no “reasonable assurance” that the proposed leases actually contain oil or gas deposits that would support a leasing decision under the MLA.

b. The Additional Resource Protection Alternative conflicts with FLPMA’s multiple-use and unnecessary and undue degradation mandates.

FLPMA requires that BLM manage federal public lands “on the basis of multiple use and sustained yield...” FLPMA § 102(a)(7), 43 U.S.C. §§ 1701(a)(7)-(8), 1702(c), 1702(h). This requires that BLM “manage[] the public lands and their various resource values so they are utilized in the combination that will best meet the future needs of the American people” and make “the most judicious use of the land.” *Id.* at § 103(c). Under the multiple-use mandate, “there is no presumed preference for oil and gas development over other uses” of public lands and minerals. IM 2010-117; *see also N.M. ex rel. Richardson v. BLM*, 565 F.3d 683, 710 (10th Cir. 2009) (“It is past doubt that the principle of multiple use does not require BLM to prioritize development over other uses.”).

FLPMA also requires that BLM prevent “unnecessary or undue degradation” (UUD) of the public lands. *See* 43 USC § 1732(b). This creates a dual requirement that BLM “prevent, not only unnecessary degradation, but also degradation that, while necessary . . . , is undue or excessive.” *Mineral Policy Center v. Norton*, 292 F. Supp. 2d 30, 42 (D.D.C. 2003). To satisfy these requirements, BLM must “disapprove an otherwise permissible . . . operation because the operation, . . . would unduly harm or degrade the public lands.” *Id.* at 43.

To help balance the multiple-uses of public lands and prevent unnecessary and undue degradation, Interior Department policies direct BLM to manage lands with low oil and gas potential for alternative uses and resource values. Under IM 2010-117, for example, BLM must consider whether “[i]n undeveloped areas, non-mineral resource values are greater than potential mineral development values.” *See* § III.C.5. Recent guidance on oil and gas leasing within greater sage-grouse habitat likewise requires that BLM prioritize leasing away from low potential areas with valuable habitat characteristics. IM 2016-143, § (A).

Leasing in low potential areas, like those in this sale, gives preference to oil and gas development at the expense of other uses because the presence of leases can limit BLM’s ability to manage for other resources. In the recently finalized Colorado River Valley Resource Management Plan, for example, BLM decided against managing lands for protection of wilderness characteristics in the Grand Hogback LWC unit based specifically on the presence of oil and gas leases, even though the leases were non-producing:

The Grand Hogback citizens’ wilderness proposal unit contains 11,360 acres of BLM lands. All of the proposed area meets the overall criteria for wilderness character...There are six active oil and gas leases within the unit, totaling approximately 2,240 acres. None

of these leases shows any active drilling or has previously drilled wells. The ability to manage for wilderness character would be difficult. If the current acres in the area continue to be leased and experience any development, protecting the unit's wilderness characteristics would be infeasible...

Proposed Colorado River Valley RMP (2015), p. 3-135. Similarly, in the Grand Junction Resource Management Plan in Colorado, BLM expressly stated that undeveloped leases on low-potential lands had effectively prevented management to protect wilderness characteristics, stating:

133,900 acres of lands with wilderness characteristics have been classified as having low, very low, or no potential...While there is not potential for fluid mineral development in most of the lands with wilderness characteristics units, the majority of the areas, totaling 101,100 acres (59 percent), are already leased for oil and gas development."

Proposed Grand Junction Proposed RMP (2015), pp. 4-289 – 4-290. The presence of leases can also limit BLM's ability to manage for other important, non-wilderness values, like renewable energy projects. *See, e.g.*, Proposed White River Resource Management Plan, p. 4-498 ("Areas closed to leasing...indirectly limit the potential for oil and gas developments to preclude other land use authorizations not related to oil and gas (e.g., renewable energy developments, transmission lines) in those areas.").

According to data synthesized for BLM's Solar Energy PEIS (Western Solar Plan), available on Argonne National Laboratory's Solar Mapper¹, the proposed lease parcels have high solar energy potential. In evaluating this lease sale, BLM should have considered the potential for solar energy development on these parcels and analyzed the impacts to solar development from issuing these leases. By committing public lands to oil and gas leases, BLM is precluding the possibility of solar energy development in these areas for the lease term, which must be analyzed in the context of BLM's multiple use mandate.

In offering the leases involved in this sale, BLM runs a similar risk of precluding and prejudicing management decisions for other resources as part of its ongoing RMP revision for the Battle Mountain District. *See* EA at 17. As described in the EA, the proposed leases overlap areas with wilderness qualities, water resources, recreation values, cultural sites, and numerous other resource values that BLM will more fully explore in the RMP. The area also has almost no history of successful oil and gas exploration and development and no potential for future successful development. In leasing these lands now, during the RMP revision for Battle Mountain, BLM gives unfair preference to oil and gas leasing and development over other resource uses and values present in these very same areas. *See* IM 2010-118 ("Under applicable laws and policies, there is no presumed preference for oil and gas development over other uses.").

Impacts from exploration and development on these leases would also unnecessarily degrade and unduly harm other resources in the area. The EA acknowledges that the likelihood of successful oil and gas development on the parcels is extremely remote and describes the repeated failures of past exploration activities in the area. EA at 19 ("From 1997 to 2015 [in the Tonopah FO] a total of 56 exploration wells were authorized...A total of five became production

¹ <https://bogi.evs.anl.gov/solmap/portal/>

wells); EA at 20 ("Since 2003, there have only been four exploration wells authorized in the MLFO...All four wells have since been plugged."). It also describes how exploratory activities on the proposed leases could irreparably damage other important resource values. *See, e.g.*, EA at 37 ("Under the Proposed Action [the spring mounds] could be damaged beyond repair through indirect impacts of any future oil and gas exploration and development."). Given the remote chance of successful development on the proposed leases, and the predicted impacts that exploratory development would have on other resources, moving forward with the Additional Resource Protection Alternative would create unnecessary degradation and unduly harm the public lands. BLM must therefore disapprove and defer the proposed leases. *See Mineral Policy Center v. Norton*, 292 F. Supp. 2d 30, 43 (D.D.C. 2003).

IV. Leases in Greater Sage-grouse Habitat.

a. BLM failed to prioritize leasing outside of Greater sage-grouse habitat.

BLM has not "prioritized" leasing outside of sage-grouse habitat, as required by the Record of Decision (ROD) for the Great Basin Region and Nevada, NE California Greater Sage-Grouse Approved RMP Amendment (ARMPA), and related policies. Under the Grouse ROD/ARMPA, BLM must:

prioritize oil and gas leasing and development outside of identified PHMAs and GHMAs to further limit future surface disturbance and to encourage new development in areas that would not conflict with GRSG. This objective is intended to guide development to lower conflict areas and, as such, protect important habitat and reduce the time and cost associated with oil and gas leasing development. It would do this by avoiding sensitive areas, reducing the complexity of environmental review and analysis of potential impacts on sensitive species, and decreasing the need for compensatory mitigation.

Great Basin ROD at 1-23; *see also* Instruction Memorandum 2016-043. This is a non-discretionary requirement of a binding land use plan with which BLM must comply under the Federal Land Policy and Management Act. *See* 43 U.S.C. § 1732(a) ("The Secretary shall manage public lands . . . in accordance with the land use plans developed by him. . ."). Yet, in the EA, BLM claims it has no obligation to prioritize leases outside of grouse habitat, and need only attach the stipulations and design features from the ROD/ARMPA. EA at 217. This is unquestionably incorrect.

According to the EA, there are ten parcels located partially or entirely in Priority Habitat Management Areas (PHMAs)² and fourteen parcels located partially or entirely in General Habitat Management Areas (GHMAs).³ Yet, BLM made no effort to prioritize leasing outside of PHMAs or GHMAs and suggests that it need not even do so: "Per BLM policy, no parcels were proposed for deferral for reasons of sage-grouse habitat because the GRSG Plan Amendment provides sufficient stipulations, required design features, and other management measures." EA at 217. But under the ROD/ARMPA and IM 2016-043, the prioritization requirement is additive to stipulations, design features and other protective measures: "the GRSG plans will

² Parcels NV-17-034, -035, -036 thru -041, -059 and -062. EA at 144.

³ Parcels NV-17-002, -014, -015, -029, -034, -035, -036 thru -041, -059 and -062. EA at 146-47.

allow for leasing and development by applying prioritizing sequencing, stipulations, required designed features, *and* other management measures. . . .” IM 2016-043 (emphasis added); see also ROD at 1-10. Under the ROD/ARMPA, BLM does not have the discretion to pick and choose which measures to follow when oil and gas leases are proposed PHMAs and GHMAs. It must apply the prioritization sequence, as well as the stipulations, design features and other measures required by the plan.

Further, it must do so by following the sequencing methodology spelled out in IM 2016-043. Under that IM, BLM is required to evaluate oil and gas leases as follows:

1. Lands outside of GHMAs and PHMAs: BLM State Offices will first consider leasing EOIs for lands outside of PHMAs and GHMAs. These lands should be the first priority for leasing in any given lease sale.
2. Lands within GHMAs: BLM State Offices will consider EOIs for lands within the GHMAs, after considering lands outside of both GHMAs and PHMAs. When considering the GHMA lands for leasing, the BLM State Office will ensure that a decision to lease those lands would conform to the conservation objectives and provisions in the GRSG Plans (e.g., Stipulations).
3. Lands within PHMAs: BLM state offices will consider EOIs for lands within PHMAs after lands outside of GHMAs and PHMAs have been considered, and EOIs for lands within GHMA have been considered. When considering the PHMA lands for leasing, the BLM State Offices will ensure that a decision to lease those lands would conform to the conservation objectives and provisions in the GRSG Plans (e.g., Stipulations) including special consideration of any identified SFAs.

In spite of the large number of leases evaluated for this sale, BLM did not prioritize leases situated outside of GHMAs and PHMAs, in accordance with the ROD, ARMPA and IM 2016-043. In fact, all of the parcels in PHMAs and GHMAs under consideration for the lease sale are included in the Additional Resource Protection Alternative (ARPA). This undermines a central goal of the ROD/ARMPA: “to guide development to lower conflict areas and, as such, protect important habitat and reduce the time and cost associated with oil and gas leasing development.” ROD at 1-23. Accordingly, BLM must defer all parcels within PHMAs and GHMAs, in order to comply with the required prioritization sequence.

b. BLM failed to apply and evaluate parcel specific factors, as required by IM 2016-043.

BLM also failed to apply the parcel-specific factors listed in IM 2016-043. Under the IM, BLM must undertake a two-step review process when parcels are nominated in sage-grouse habitat. First, as discussed above, it must apply the prioritization sequence. Second, it must apply several “parcel specific factors” to the remaining parcels. This second step is designed to further reduce potential conflicts between oil and gas development and sage-grouse habitat by eliminating parcels with low potential for oil and gas development and important habitat characteristics for sage-grouse. Those factors include the following:

- “Parcels immediately adjacent or proximate to existing oil and gas leases and development operations or other land use development should be more appropriate for consideration before parcels that are not near existing operations. This is the most important factor to consider, as the objective is to minimize disturbance footprints and preserve the integrity of habitat for conservation.”
- “Parcels in areas with higher potential for development (for example, considering the oil and gas potential maps developed by the BLM for the GRSG Plans) are more appropriate for consideration than parcels with lower potential for development. The Authorized Officer may conclude that an area has ‘higher potential’ based on all pertinent information, and is not limited to the Reasonable Foreseeable Development (RFD) potential maps from Plans analysis.”
- “Parcels in areas of lower-value sage-grouse habitat or further away from important life-history habitat features (for example, distance from any active sage-grouse leks) are more appropriate for consideration than parcels in higher-value habitat or closer to important life-history habitat features (i.e. lek, nesting, winter range areas). At the time the leasing priority is determined, when leasing within GHMA or PHMA is considered, BLM should consider, first, areas determined to be non-sage-grouse habitat and then consider areas of lower value habitat.”

IM 2016-043. In the EA, BLM failed to reference, let alone apply, these factors, including “the most important factor:” whether parcels are near existing leases or development. Indeed, it appears that many of the leases are far from existing development and are also “highly speculative.” According to the EA:

Based on past history and considering advancements in drilling and well stimulation techniques, it would be highly speculative to assume that production wells and additional oil fields would be developed within the TFO in areas other than Railroad Valley in the eastern part of the field office area, where the potential is moderate to high and where current well fields exist. The recent exploration and development history provides a basis for estimating a low development potential for oil and gas disturbance that might indirectly result from the June 2016 Competitive Oil and Gas Lease Sale.

* * * *

Since 2003, there have only been four exploration wells authorized in the MLFO. The last of these was drilled in 2013. All four wells have since been plugged. The potential for oil and gas exploration and production in the MLFO can also be considered low.

EA at 19-20. Moreover, although the Revised EA provides little site-specific information about the quality or significance of sage-grouse habitat within the proposed leases, both the U.S. Fish & Wildlife Service and Nevada Department of Wildlife recommended deferrals for an unspecified number of parcels. See EA at 14, 217. This strongly suggests that at least some parcels encompass “higher-value habitat,” making them less “appropriate for consideration” under the IM, especially when their low development potential is factored in.

In other recent lease sale EAs analyzing nominations in PHMA, BLM applied the prioritization sequence and discussed how the parcel-specific factors informed its proposed action and leasing decision. For example, in the Draft EA for Wyoming BLM's August 2017, BLM applied the parcel-specific factors to justify a deferral decision:

After careful review of the parcels, the BLM has determined that it was appropriate to defer certain parcels nominated for inclusion in the August 2017 oil and gas lease sale. . . . These deferrals were made consistent with the BLM's sage-grouse conservation plans and strategy, which direct the BLM to prioritize oil and gas leasing and development in a manner that minimizes resource conflicts in order to protect important habitat and reduce development time and costs. Parcels deferred are generally located in sage-grouse important life-history habitat features such as active or occupied leks, and/or are not proximate to adjacent to existing development, and are in areas of low oil and gas development potential.

Draft EA at 1-2, 1-3.⁴ In that same sale, BLM also applied the parcel-specific factors to justify a decision to carry forward parcels for leasing: "Parcels WY-1708-153 and WY-1708-154 are proximate or adjacent to federal oil and gas leases with active development and production (within 2 miles of leases currently held by production), and have no known sage-grouse leks within the boundaries. The area is also proximate to bentonite mining claims, disturbance, and activity." *Id.* at 3-38. Thus, in the Wyoming sale, BLM proposed deferring parcels on lands with high-quality sage-grouse habitat, low potential for oil and gas development, and minimal nearby development, and also proposed carrying forward parcels on lands with lower-quality sage-grouse habitat that are near existing development.

As another example, in the Final EA for Colorado BLM's June 2017 lease sale, BLM devoted several pages to analyzing and explaining how the prioritization sequence and parcel-specific factors applied to its decision to lease 22 parcels that had only "minor overlap" with PHMAs and GHMAs. Final EA at 103-06.⁵ In applying the prioritization sequence, BLM configured the proposed leases to avoid both GHMA and PHMA, leaving parcels with only "diminutive slivers of habitat on the periphery of mapped GHMA and PHMA." *Id.* at 103. In doing so, BLM made a "conscious effort . . . avoid inclusion of mapped sage-grouse habitats." *Id.* at 103. Further, even though the re-configured parcels had minimal overlap with sage-grouse habitat, BLM devoted several pages of analysis to the parcel-specific factors from IM 2016-143 by considering nearby oil and gas development, the quality of the sage-grouse habitat, and development potential in the area of the parcels.

These examples underscore the inadequacy of the Revised EA, and confirm that when parcels are proposed in PHMAs and GHMAs, BLM must apply parcel specific factors set forth in IM 2016-043, as well as the prioritization sequence. Because BLM did not do so in the EA for this lease sale, the agency must remove the parcels located in PHMAs and GHMAs from the sale.

⁴ Available at https://eplanning.blm.gov/epl-front-office/projects/nepa/65707/96369/116428/v1_WRBBD_EA.pdf.

⁵ Available at https://eplanning.blm.gov/epl-front-office/projects/nepa/65253/99311/120334/WRFO_LSFO_KFO_EA_SaleNotice_June2017.pdf.

V. Water Resources

a. BLM has not taken a hard look at direct, indirect, and cumulative impacts on water resources.

BLM has not fully evaluated the direct, indirect, and cumulative impacts of leasing on potentially affected water resources.⁶ Under NEPA, BLM must take a “hard look” at the environmental consequences of its proposed actions. 42 U.S.C. § 4332(C); *Great Basin Res. Watch v. BLM*, 844 F.3d 1095, 1101 (9th Cir. 2016). This includes the issuance of oil and gas leases, especially when those leases would allow surface disturbing activities. *Conner v. Buford*, 836 F.2d 1521, 1531-32 (9th Cir. 1988). Here, BLM has not fully evaluated, disclosed and factored into its analysis the impacts of leasing on water resources, as required by NEPA.

According to the EA, “unusual and rare” water resources are found on the leases. These include “major wetlands in portions of parcels 10, 12, 13, 19, 20 and 21; and in Diamond Valley, parcel 52.” EA at 41. Also present are “unique hydrologic features in the Big Smoky Valley” (so-called “spring mounds”) discovered through “[r]ecent BLM field work. . . .” *Id.* at 41. Spring mounds

are an extremely unusual and rare hydrologic feature. The mounds are circular in shape, and while they vary in size, they tend to be five to ten feet taller than the surrounding land surface and 100 to 200 feet in diameter. The surface of the entire mound is wet, with water seeping out to an average depth of one-half to one inch. The water smells of sulfur and bacteria characteristic of acidic environments can be seen at the surface. Grasses grow at the surface, and a variety of insects live within the habitat provided. The most distinctive feature of the spring mounds, however, is that the surface of the mound appears to be composed of 42 bacterial mats. It is not clear if the bacterial mats and vegetation grow on a common soil horizon, or if they vegetation is growing in the bacterial mat itself. It is also not clear if the mat is singular, or perhaps the last in a successive series of bacterial mats. The spring mounds will oscillate up and down when impacted, which implies the upper extent of the mound may be composed of multiple layers of bacterial mat interspersed with spring water.

Id. at 41-42. Spring mounds also “possess a geochemistry, geomorphology, and biologic diversity that are utterly unique within the surrounding environment.” *Id.* at 42. Accordingly, BLM determined that “[b]ased on the unknown value of these features, *preservation for the purpose of future study is essential*. Under the Proposed Action these resources *could be damaged beyond repair* through indirect impacts of any future oil and gas exploration and development.” *Id.* (emphases added).

Yet, in the EA, BLM fails to identify and discuss the specific indirect impacts underlying this conclusion. This raises serious questions about the efficacy of proposed mitigation measures,

⁶ Protested parcels include all parcels subject to the water resources stipulation, as well as any parcels not covered by that stipulation that contain spring mounds. At a minimum, this includes: NV-17-6-004, -005, -006, -007, -008, -009, -011, -012, -013, -014, -016, -017, -018, -020, -021, -022, -037, -038, -039, -040, -069, -070, -073, -074, -075, -076, -077, -078, -079, -080, -081, -082, -084, -085, -086, -087, -088, -089, -090, -098, -099, -101 and -102.

including the water resources stipulation. BLM's conclusory statement that this stipulation "is sufficient to protect water resources" is not sufficient for purposes of NEPA. *Klamath-Siskiyou Wildlands v. BLM*, 387 F.3d 989, 996 (9th Cir. 2004).

In *Klamath-Siskiyou*, the Ninth Circuit rejected BLM EAs for two timber sales, because the analysis hinged on "general statements about possible effects and some risk. . . ." *Id.* at 994. The court ruled that those "conclusory" statements "do not constitute a hard look absent a justification regarding why more definitive information could not be provided." *Id.* BLM has committed the same mistake here, providing no detailed information concerning the nature, scope or severity of potential indirect impacts on spring mounds.

b. The Draft FONSI improperly relies on inadequate mitigation measures.

The Draft FONSI improperly relies on inadequate, unproven mitigation measures. Under NEPA, BLM may base FONSIs on mitigation measures only when such measures "will render . . . impacts so minor as to not warrant an EIS." *Nat'l Parks Conservation Ass'n v. Babbitt*, 241 F.3d 722, 734 (9th Cir. 2001). Because the mitigation measures identified in the Draft FONSI – specifically, the water resources stipulation – will not accomplish that purpose, BLM must adopt stronger measures or prepare an EIS.

In the EA, BLM repeatedly references the uniqueness, breadth and sensitivity of water resources found on the proposed leases. BLM variously describes these resources as "utterly unique" and "extremely unusual and rare. . . ." EA at 41-42. It further states that overlapping water resources "largely or entirely overlay" several of the proposed leases. *Id.* at 42. Finally, it cautions that "these resources could be damaged beyond repair through indirect impacts of any future oil and gas exploration" and "that it would be difficult or impossible to avoid impacts to these hydrological features and their associated plant communities and wildlife habitats." *Id.*

In the Draft FONSI, BLM relies entirely on the water resources stipulation to address and minimize these impacts. That stipulation is fatally flawed, however. First, it is based on the assumption that any impacts from oil and gas exploration and development, including road and pipeline construction and hydraulic fracturing, can be dealt with by modifying the design and location of infrastructure. EA at 170. This approach, however, ignores the on-the-ground realities, as "several of the proposed lease parcels – particularly in Big Smoky Valley and northern Diamond Valley – largely or entirely overlay a combination of water bodies, wetlands, perennial or ephemeral streams, floodplains, and/or ephemerally-flooded playas. . . ." *Id.* at 42. Neither the Draft FONSI nor the EA explain how the water resources stipulation will minimize impacts when redesigning or relocating infrastructure is simply not possible because wetlands, spring mounds, and other water resources "entirely overlay" leases. While BLM rightly recognized in the EA that "it would be difficult or impossible to avoid impacts to these hydrological features", the Draft FONSI ignores this irrefutable conclusion. In doing so, BLM has violated NEPA.

Second, there is no data to support the conclusion that the water resources stipulation will successfully mitigate impacts to spring mounds. These resources were apparently just discovered by BLM and are "utterly unique." That is why, in the EA, BLM cautioned that their "preservation for the purpose of future study is essential" and warned that even "indirect impacts [from] . . . oil and gas exploration" could damage spring mounds "beyond repair. . . ."

EA at 42. Yet, there is no analysis whatsoever in the EA of how the water resources stipulation will address the concern identified by BLM for indirect (and other) impacts.

The *National Parks Conservation Association* case is instructive here. In that case, the court recognized that without scientifically defensible mitigation measures “there [was] a substantial possibility” for significant environmental impacts. *Nat’l Parks Conservation Ass’n v. Babbitt*, 241 F.3d at 733. The court concluded that such measures were lacking because “of the paucity of analytic data to support the Park Service’s conclusion that the mitigation measures would be adequate in light of environmental harms.” *Id.* at 734. The same circumstances exist here. BLM has determined that oil and gas activity could cause irreparable damage to springs mounds. It has developed mitigation that is supposed to prevent that damage. Yet, the proposed mitigation is wholly unsupported by any “analytic data” or discussion of how the water resources stipulations will prevent oil and gas activity from irreparably damaging spring mounds. Accordingly, the water resources stipulation is an inadequate basis for the FONSI.

c. BLM has violated Executive Order 11990.

By not selecting the least damaging alternative for wetlands, BLM has violated Executive Order (E.O.) 11990. EO 11990 contains two, action-forcing requirements when federal actions involve wetlands. First, agencies must make a finding that there is “no practicable alternative” to building in wetlands. E.O. 11990 § 2(a)(1). Second, assuming such an alternative does not exist, then agencies must adopt “all practicable measures to minimize harm to wetlands. . . .” *Id.* § 2(a)(2). Importantly, the E.O. “sets forth a more exacting standard than the National Environmental Policy Act.” *City of Carmel-by-the-Sea v. United States DOT*, 123 F.3d 1142, 1167 (9th Cir. 1997); see also *Nat’l Wildlife Fed’n v. Adams*, 629 F.2d 587, 591 (9th Cir. 1980) (“We have no doubt that Executive Order 11,990 extends a broader protective aura to wetlands than would NEPA standing alone.”). Further, the E.O. applies to the issuance of oil and gas leases. *Wilderness Soc’y v. Salazar*, 603 F. Supp. 2d 52, 71 (D.D.C. 2009). Because BLM failed to comply with the E.O.’s mandatory procedures and substantive requirements for a lease sale that could damage wetlands “beyond repair,” the agency has violated the E.O.

The EA contains no evidence that BLM attempted to comply with E.O. 11990. There is no recognition of the “no practicable alternative” standard, and no record of BLM applying that standard in the context of this lease sale. If BLM had done so, then it would have reached a far different decision than what is described in the Draft FONSI, because there clearly are “practicable alternatives” to the ARPA. At least two are described in the EA: deferring leases that overlap with wetlands and offering those leases with no-surface occupancy (NSO) stipulations. EA at 18, 49. BLM presents no evidence that either of these alternatives is not “practicable;” indeed, BLM has ample authority to not lease the wetlands parcels or to condition those parcels in order to minimize harm to wetlands. See *Western Energy Alliance v. Salazar*, 709 F.3d 1040, 1044 (10th Cir. 2013) (confirming that BLM has “extremely broad discretion” over oil and gas leasing and is “not obligated to issue any lease on public lands.”).

Further, even if there actually were “no practicable alternatives” to the ARPA, BLM has not adopted “all practicable measures to minimize harm wetlands. . . .” BLM points to the water resources stipulation as sufficient to protect wetlands, but that stipulation will do little to address impacts on wetlands that completely cover several of the leases. See EA at 42 (“several of the proposed lease parcels – particularly in Big Smoky Valley and northern Diamond Valley –

largely or entirely overlay a combination of water bodies, wetlands, perennial or ephemeral streams, floodplains, and/or ephemerally-flooded playas"). In fact, BLM states that "it would be difficult or impossible to avoid impacts to these hydrological features. . . ." *Id.* This conclusion completely undermines the water resources stipulations and shows that stronger mitigation measures, such as deferrals and/or NSO stipulations, are still necessary to "minimize harm" to wetlands. BLM's failure to adopt those measures violates E.O. 11990.

d. The ARPA violates the Clean Water Act.

The ARPA would violate various certification and permitting requirements of the Clean Water Act (CWA). Under the CWA, federal lessees must obtain several permits and certifications before approval to discharge pollutants into navigable waters is granted. *See, e.g.,* 33 U.S.C. §§ 1341, 1342, 1344; *Keating v. FERC*, 927 F.2d 616, 622 (D.C. Cir. 1991) (requiring section 401 certification for federal approval). Because the ARPA does not make compliance with these certification and permitting requirements a prerequisite for obtaining leases that will discharge pollutants into navigable waters, it violates the CWA.

BLM clearly states in the EA that if the leases are issued, then subsequent development will discharge pollutants into wetlands and other water resources:

several of the proposed lease parcels – particularly in Big Smoky Valley and northern Diamond Valley – largely or entirely overlay a combination of water bodies, wetlands, perennial or ephemeral streams, floodplains, and/or ephemerally-flooded playas, to the extent that it would be difficult or impossible to avoid impacts to these hydrological features and their associated plant communities and wildlife habitats. Leasing these parcels would risk violation of Executive Orders 11988 and 11990 and/or the Clean Water Act.

EA at 42. As explained by the court in *Wilderness Society v. Salazar*, "leasing constitutes construction" because:

BLM's decision to lease land for oil and gas exploration and development constitutes providing assistance for new construction located in wetlands [and] is the first step toward exploration and development, and because as a result of BLM's decision, BLM has ensured that some construction on the lands will occur. Although BLM will be able to place conditions on development of specific leases when making specific decisions on exploration and development, it will not be able to prohibit development completely.

603 F. Supp. 2d at 71 (internal quotations omitted). Thus, there is no question that the CWA's permitting and certification requirements are triggered by the proposed lease sale.

Further, even with the controls over the design and location of infrastructure provided by the water resources stipulations, the leases will still result in the discharge of pollutants into wetlands and other water resources. This is because, as discussed above, several of the leases are covered entirely by water resources, thus eliminating the possibility that the water resources stipulation could successfully avoid any pollutant discharges. Thus, given the certainty

that the RPA will result in the discharge of pollutants to navigable waters, BLM cannot issue the leases unless and until prospective purchasers obtain section 401 certifications under the CWA.

VI. Updated Analysis is Required

As noted above, the RMPs governing decisions to lease in the Battle Mountain District are decades old. Recently, Nevada Congressman Ruben Kihuen (CD04) highlighted the need to complete the revision of the Battle Mountain RMP in his letter to BLM's Battle Mountain District (attached as Exhibit 5). The RMPs for the Elko/Wells, Southern Nevada and Carson City planning areas are also extremely out of date and even the more recent RMPs, such as Ely and Winnemucca, did not take into account recent developments in drilling technology, the ongoing interest in oil and gas leasing in Nevada and updated guidance on identifying and managing lands with wilderness characteristics and managing greater sage-grouse habitat.

BLM is obligated to "describe the environment of the areas to be affected or created by the alternatives under consideration." 40 C.F.R. § 1502.15. Establishment of baseline conditions is an important requirement of NEPA. In *Half Moon Bay Fisherman's Marketing Ass'n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988), the Ninth Circuit states that "without establishing . . . baseline conditions . . . there is simply no way to determine what effect [an action] will have on the environment, and consequently, no way to comply with NEPA." The court further held that "[t]he concept of a baseline against which to compare predictions of the effects of the proposed action and reasonable alternatives is critical to the NEPA process."

In this lease sale and others throughout the state, the BLM has not updated its description and analysis of the affected environment, including the presence of lands with wilderness characteristics. Thus, no valid baseline of environmental conditions is presented, which violates the requirements of NEPA. The need to present an accurate and current description of baseline conditions can only be accomplished if the underlying RMPs are revised before oil and gas leasing is authorized.

Without an updated baseline, BLM also cannot fully analyze the direct, indirect and cumulative effects of leasing and development on the affected environment. Further, the radical changes in the types of drilling technologies that are now in use also undermine the existing analysis of likely impacts from leasing and development, requiring updated analysis. See, e.g., *Center for Biological Diversity (CBD) v. BLM*, 937 F. Supp. 2d 1140 (N.D. Cal. 2013) (finding that the new technique of hydraulic fracturing must be considered in an oil and gas leasing NEPA analysis). In the *CBD* case, the court found that the failure to update evaluation in an underlying land use plan to address modern hydraulic fracturing practices violated NEPA. BLM is now preparing a programmatic EIS to evaluate the impacts of hydraulic fracturing in California. The draft version of that EIS, issued in January 2017, now sets out a preferred alternative in which "[o]nly areas with high oil and gas potential or within the boundaries of existing oil and gas fields would be open to leasing."⁷

⁷See <https://www.federalregister.gov/documents/2017/01/06/2016-31975/notice-of-availability-of-the-draft-central-coast-resource-management-plan-amendment-and-draft>; <https://www.blm.gov/press-release/blm-announces-public-meetings-draft-plan-oil-and-gas-leasing-central-california>.

An updated baseline and environmental analysis at the RMP level for oil and gas leasing in the Battle Mountain District, and really throughout the state, is needed to support ongoing leasing. BLM can take this opportunity to conduct a programmatic EIS for the state, similar to the regional EIS being completed by the BLM in California. The concept of programmatic NEPA is very flexible, and can be applied not only to a program, but also to narrower efforts, such as an EIS to evaluate oil and gas leasing. The direction for completing such a programmatic EIS comes from the Council on Environmental Quality's NEPA regulations, which state (in relevant part):

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (Sec. 1508.18). **Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.**

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

1. Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.
2. Generically, including actions which have relevant similarities, such as common timing, impacts, alternatives, methods of implementation, media, or subject matter.
3. By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

40 C.F.R. § 1502.4 (Major Federal actions requiring the preparation of environmental impact statements) (emphasis added).⁸

The Supreme Court has held that the environmental consequences of a set of proposed actions must all be considered together in a single, programmatic EIS when their impacts will have a compounded effect on a region. See *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976). This obligation stems from the regulations set out above, and also from NEPA's requirement that the scope of the federal action being analyzed must be accurately characterized to ensure that an EIS of equivalent scope is prepared. See *Aberdeen & Rockfish R. Co. v. SCRAP*, 422 U.S. 289, 322 (1975).

By completing a programmatic EIS, an agency is able to examine "an entire policy initiative rather than performing a piecemeal analysis." *Northcoast Environmental Center v. Glickman*, 136 F.3d 660, 688 (9th Cir. 1998). This type of analysis would permit Nevada BLM to incorporate significant new information on lands with wilderness characteristics and leasing

⁸ See also 79 Fed. Reg. 76,986 (Dec. 23, 2014) (Council on Environmental Quality "Final Guidance for Effective Use of Programmatic NEPA Reviews").

technologies, evaluate environmental impacts, and consider needed protections and alternatives such as only permitting leasing in lands with high oil and gas potential and low resource conflicts. Given the substantial amount of land under lease that is not being developed and the low potential of many of the nominated lease parcels, this is an opportune time to conduct the needed analysis, such as through a statewide oil and gas EIS. Similar approaches were taken in Colorado and Montana and have provided a mechanism to evaluate leasing from a statewide perspective, as well as to conduct further analysis or updates at a field office level as needed.⁹

Further, developing a programmatic EIS would allow Nevada BLM to adopt a more efficient, cost-effective and targeted oil and gas leasing program. Nevada BLM is currently spending an excessive amount of time and resources evaluating oil and gas leases that industry is either not bidding on or will likely never develop. For example, over the past three years, Nevada BLM has held three oil and gas leases sales where industry did not bid upon a single parcel. Over that same time period, industry purchased only 10% of acres offered for lease, and BLM collected only \$4.05 in bonus bids per acre offered:

SALE¹⁰	OFFERED (PARCELS/ACRES)	SOLD (PARCELS/ACRES)	BONUS BIDS
Mar. 2015	24 / 25,882	13 / 15,244	\$30,496
June 2015	124 / 256,875	0	0
Dec. 2015	3 / 3,641	0	0
Mar. 2016	39 / 50,416	0	0
June 2016	42 / 74,661	4	\$24,740
Mar. 2017	67 / 115,970	20 / 35,502	\$74,780
Total	299 / 527,445	37 / 50,746 (10% of acres offered)	\$130,016 (\$4.05/acre offered)

Contrast these figures with those for other states, where BLM is normally offers significantly fewer acres for lease, but collects significantly higher bonus binds, and it underscores just how inefficient and wasteful the oil and gas program in Nevada has become. See Exhibit 6. And with only 2 percent of leased acres in Nevada actually producing oil or gas, BLM would be well-served by preparing a programmatic EIS that considered alternative approaches for managing the oil and gas program in Nevada.¹¹

⁹ See Oil and Gas Leasing and Development Record of Decision and RMP Amendment for the Glenwood Springs Resource Area (March 1999); Record of Decision for the Final Supplement to the Montana Statewide Oil and Gas to the Montana Statewide Oil and Gas EIS and Amendment of the Powder River and Billing Resource Management Plans (December 2008).

¹⁰ All data obtained from BLM: <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/nevada>

¹¹ <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/oil-and-gas-statistics>

We hope to see BLM complete needed analysis and fully comply with applicable law and guidance prior to proceeding with leasing the protested parcels.

Sincerely,



Nada Culver, Director and Senior Counsel
BLM Action Center
The Wilderness Society
1660 Wynkoop Street, #850
Denver, CO 80202
303-225-4635
nada_culver@twc.org

Exhibits:

1. TWS comments on preliminary EA
2. Wilderness inventory for Sulphur Springs area
3. BLM Lands with Wilderness Characteristics Summary document
4. Maps of high potential lands with wilderness characteristics
5. Letter from Congressman Ruben Kihuen to Doug Furtado, Battle Mountain District Manager, dated April 24, 2017
6. BLM State Office Lease Sale Figures for the Past 3 Years (2015-2017)

EXHIBIT 1



February 3, 2017

Delivered via email to jfatooh@blm.gov

BLM Battle Mountain District Office
Attn.: Joy Fatooh
50 Bastian Road
Battle Mountain, NV 89820

Re: Comments on the Nevada June 2017 Oil and Gas Lease Sale

Dear Ms. Fatooh,

Thank you for the opportunity to submit comments on the Environmental Assessment for BLM Nevada's June 2017 oil and gas lease sale. We have significant concerns with the proposed lease sale, including primarily BLM's failure to comply with relevant policy governing lands with wilderness characteristics and unacceptable resource conflicts as documented in the Environmental Assessment. We therefore recommend BLM defer this lease sale until the agency completes adequate analysis to support leasing in the Battle Mountain District.

I. **Public participation**

BLM has failed to provide meaningful opportunity for public participation in the Nevada June 2017 lease sale. Not only is public participation in review of agency actions foundational to the National Environmental Policy Act (NEPA) and BLM's oil and gas leasing reforms, it assists the agency with conducting more thorough, efficient and effective environmental review processes. BLM is impeding public participation in this lease sale by neglecting to provide a public scoping opportunity and by not posting geospatial data for the lease parcels at issue.

A key, overarching purpose of NEPA is to increase public knowledge and participation in agency decision-making. NEPA requires that agencies make "*diligent efforts* to involve the public in preparing and implementing their NEPA procedures." See 40 CFR § 1506.6(a) (emphasis added). Agencies must provide "public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons or agencies who may be interested or affected." *Id.* § 1506.6(b). NEPA also directs that "There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping." *Id.* § 1501.7. Although scoping is not strictly required for EAs, BLM almost always conducts scoping for lease sale EAs, and the absence of a scoping period here evidences a lack of diligent efforts to involve the public.

The absence of a public scoping period also undermines the oil and gas leasing reforms provided in IM 2010-117. That IM “established a process for ensuring orderly, effective, timely, and environmentally responsible leasing of oil and gas resources.” IM 2010-117 at 1. Toward this end, the IM called for increased public participation in lease sales: “The process outlined in this IM—which includes site-specific parcel analysis and increased public participation—will help identify, address, and resolve most issues before the lease sale.” IM 2010-117 at 13. Declining to provide a public scoping opportunity undermines the vision articulated in IM 2010-117 of increasing public participation and conducting more efficient and effective oil and gas leasing.

Additionally, the public has valuable information that BLM must consider in the NEPA review for this lease sale, which could have been provided to the agency during a scoping period if one was offered. For example, as detailed below, we have information regarding potential and existing lands with wilderness characteristics that we could have provided BLM during scoping and that BLM must incorporate into a revised EA. Instead, BLM has now prepared an entire environmental assessment without that information, and must revise the environmental assessment in light of that information. The NEPA review for this lease sale would have been more thorough, efficient and effective if BLM had provided a public scoping opportunity, a fact recognized by BLM in many other states where the agency regularly conducts public scoping as part of analyzing oil and gas lease sales.

In addition to not providing a public scoping opportunity, BLM has failed to make “diligent efforts to involve the public” by not providing any geospatial data for the lease parcels under consideration in the EA. Declining to provide geospatial data significantly impedes the public’s ability to understand proposed actions on public lands or make substantive comments. It also conflicts with the almost universal practice in other BLM offices of publishing this data during the scoping period and throughout the NEPA process for lease sales.

BLM also failed to make diligent efforts to involve the public by breaking with customary practice of publishing an online schedule of public participation opportunities for this sale. Other BLM State Offices follow structured schedules for public comment periods and posting of documents to ensure compliance with IM 2010-117, and have those schedules posted online to assist public participation. For example, see BLM Colorado’s Public Involvement Calendar online at: https://www.blm.gov/co/st/en/BLM_Programs/oilandgas/oil_and_gas_lease/2017/public_involvement.html. Other BLM State Offices also regularly post GIS data for nominated parcels and parcels that would be offered by alternative. These are critical steps to facilitate public participation in lease sales, and interested stakeholders like The Wilderness Society should be able to depend on the faithful, consistent execution of these steps.

The Battle Mountain District and BLM Nevada as a whole should provide for public scoping, publish notice of scoping online, publish geospatial data during the scoping and public comment periods, and provide a schedule of lease sale steps and public participation opportunities. By not doing so here, BLM broke with almost universal practice of other field offices and failed to make the “diligent efforts to involve the public” that NEPA requires.

II. Lands with wilderness characteristics

BLM must inventory the proposed lease parcels for lands with wilderness characteristics (LWC) and defer parcels where wilderness resources are identified in compliance with the Federal Land Policy and Management Act (FLPMA), NEPA and relevant agency policy issued under those statutes.

a. FLPMA requires BLM to maintain an inventory of lands with wilderness characteristics.

Lands with wilderness characteristics are one of the resources of the public lands that must be inventoried under the Federal Land Policy and Management Act (FLPMA). 43 U.S.C. § 1711(a); see also *Ore. Natural Desert Ass'n v. BLM*, 625 F.3d 1092, 1122 (9th Cir. 2008) (holding that “wilderness characteristics are among the ‘resource and other values’ of the public lands to be inventoried under § 1711”). Instruction Memorandum 2011-154 directs BLM to consider lands with wilderness characteristics in land use plans and when analyzing projects under NEPA. The IM promulgates current agency policy for considering the wilderness characteristics on public lands as part of its multiple-use mandate in developing and revising land use plans *and when making subsequent project level decisions*, consistent with FLPMA. The IM directs BLM to “conduct and maintain inventories regarding the presence or absence of wilderness characteristics, and to consider identified lands with wilderness characteristics in land use plans and when analyzing projects under [NEPA].” BLM Manual 6310 directs BLM on how to conduct lands with wilderness characteristics inventories in compliance with FLPMA and agency policy.

BLM Manual 6310 requires BLM to consider whether to update or conduct a wilderness characteristics inventory when a project that may impact wilderness characteristics is undergoing NEPA analysis, when the public identifies wilderness characteristics as an issue in a NEPA process, and/or when the public submits new information concerning resource conditions. BLM Manual 6310 at .06(A). Appropriately, the EA discusses lands with wilderness characteristics, but then incorrectly dismisses the resource as “not present”. EA at 20. Because BLM does not have a current inventory of lands with wilderness characteristics for the Battle Mountain District, as detailed further in these comments, this is an inappropriate dismissal of this resource and is in violation of the agency’s inventory obligations under FLPMA.

b. BLM must update its lands with wilderness characteristics inventory for all oil and gas lease parcels prior to offering them for sale.

BLM must consider lands with wilderness characteristics in evaluating lease parcels to be offered for sale. However, BLM does not have an updated, policy-compliant LWC inventory for all of the parcels proposed for lease. The Battle Mountain District completed some LWC inventory updates in 2012-2013 as part of the ongoing Battle Mountain Resource Management Plan (RMP) revision. BLM’s Lands with Wilderness Characteristics Summary document¹ states that BLM identified all potential LWC units in the planning area, but then conducted almost no new inventory work, instead relying primarily on the 1980 Nevada BLM Intensive Wilderness Inventory:

Existing BLM inventories were also reviewed to determine if their conclusions were still valid including the BLM Nevada Initial Inventory Decisions of 1979 and the Nevada BLM Intensive Wilderness Inventory of 1980. For most inventory units, these conclusions were still valid and the inventory is considered maintained.

LWC Summary at 3 (emphasis added). In fact, BLM conducted field inventory for only 13 units as part of the 2012-2013 inventory update, finding 215,200 acres of LWC in a 10.5 million-acre planning area. *Ibid.*

¹ Posted online at https://www.blm.gov/nv/st/en/fo/battle_mountain_field/blm_information/rmp.html.

As stated above, under FLPMA, BLM must maintain a current wilderness inventory for public lands under its jurisdiction. Furthermore, BLM must comply with its own policies that detail how to comply with FLPMA obligations on conducting inventories for wilderness characteristics and considering those inventories in oil and gas leasing. In addition to IM 2011-154 and BLM Manual 6310, BLM's leasing guidance, IM 2010-117, requires the agency to:

review parcels in light of the most current national and local program-specific guidance to determine availability of parcels for leasing and/or applicable stipulations (e.g., to address conservation strategies and protect archaeological resources, traditional cultural properties, paleontological resources, specially designated areas on or near BLM-administered lands, sensitive species, watersheds, fisheries and wildlife habitat, visual resources, air quality, and wilderness qualities).

(emphases added).

Elsewhere, BLM regularly defers proposed lease parcels when, as here, updated information on wilderness characteristics is not available to inform lease parcel analysis and land use planning is ongoing. For example, the Bighorn Basin District Office in Wyoming deferred several parcels from Wyoming BLM's August 2013 lease sale because they overlapped with "Lands with Wilderness Characteristics inventory area" while BLM completed the RMP revision. DOI-BLM-WY-R010-2013-0014-EA at 4-37.

Similarly, the White River Field Office in Colorado deferred leasing in areas identified as potential lands with wilderness characteristics while the agency updated its inventory:

To comply with this guidance, the WRFO did an initial assessment of the WRFO resource area and identified areas that have the potential to meet the criteria for Lands with Wilderness Characteristics. Parcels initially identified for the May 2011 lease sale containing any portions of lands that fell within these potential areas were deferred both to allow the BLM to take a closer look at these areas and to allow for another public comment period in which the new policy and the evaluation of these parcels could be discussed.

DOI-BLM-CO-110-2011-0056-EA at 3. The White River Field Office did not offer any leases that overlap with potential LWC until it had completed LWC inventory compliant with BLM Manual 6310. In another oil and gas leasing EA, the White River Field Office also deferred leasing on over 250,000 acres that may possess wilderness characteristics while it was completing an oil and gas RMP amendment:

The WRFO is currently working on a Resource Management Plan Amendment and associated EIS that will address the potential impacts of significant increases in oil and gas development within the field office over the next 20 years... Because the leasing of lands with wilderness characteristics is likely to result in indirect, adverse impacts to this resource value, it is recommended that until a decision is made on the management of these units, the areas where lands with wilderness characteristics units overlap with nominated parcels be deferred, as under Alternative 3.

DOI-BLM-CO-110-2013-099-EA at 80. The Battle Mountain District must follow suit, and as required by FLPMA and associated policies, defer all lease parcels that may possess wilderness characteristics until BLM can complete updated LWC inventories for those areas. At a minimum,

this must include the areas for which BLM has received new LWC inventory information from Friends of Nevada Wilderness and areas described below that we have identified as having a high likelihood of meeting the agency's criteria for lands with wilderness characteristics:

- The Big Smoky Valley contains several polygons of contiguous unroaded BLM lands greater than 5,000 acres in size that may contain wilderness characteristics. BLM did not inventory any of the potential units in the Big Smoky Valley in its 2013 inventory update. It is unclear if this area has ever been inventoried; if so, those inventories are likely at least several decades old and are not conducted according to guidance in Manual 6310. By any standard, the existing inventory is out-of-date. Parcels 4-14 and 16-32 all overlap with potential lands with wilderness characteristics in the bottoms and alkali flats of the upper Big Smoky Valley in both Lander and Nye Counties and should be deferred until inventories are completed.
- Parcels 52, 69-82, 84-89, 98-99, and 101-103 are all located in the Diamond Valley in northern Eureka County. These parcels overlap with the Diamond Valley alkali flat, an area that is highly likely to meet the criteria for lands with wilderness characteristics because of its large size of over 90,000 acres of contiguous unroaded BLM lands. It is unclear if this area has ever been inventoried; if so, those inventories are likely at least several decades old and are not conducted according to guidance in Manual 6310. By any standard, the existing inventory is out-of-date. The parcels in the Diamond Valley (listed above) should be deferred until updated lands with wilderness characteristics inventories can be completed.
- The Diamond Mountains in Eureka County also contain large blocks of contiguous unroaded BLM lands that are likely to meet the criteria for lands with wilderness characteristics. It is unclear if this area has ever been inventoried, although the Ely District may have recently conducted some inventories in the Diamond Mountains that are contiguous with lands on the west side of the Diamond Mountains that overlap with parcels in this sale. Parcels 92-96 and 104-105 overlap with contiguous unroaded lands in the Diamond Mountains that may meet the criteria for lands with wilderness characteristics as defined in Manual 6310. BLM must defer these parcels until updated inventories are completed.
- The BLM lands that make up White Cloud Peak and Dave Keane Mountain in the Fish Creek Range southwest of Eureka are highly likely to contain contiguous blocks of unroaded BLM lands that meet the criteria for lands with wilderness characteristics. There are some large polygons of unroaded lands in the Fish Creek Range. Parcels 42-49 and Parcel 66 all overlap with potential lands with wilderness characteristics. Again, it is unclear if these lands have ever been inventoried by BLM for the presence of wilderness characteristics. However, these lands have not been inventoried recently, and existing inventories for these lands, if they exist, are likely more than 30 years old. BLM must defer these parcels until it is able to conduct a thorough and updated inventory of lands with wilderness characteristics in the Fish Creek Range under guidance outlined in Manual 6310.

For all areas that BLM finds to possess wilderness characteristics, BLM must defer leasing until the Battle Mountain RMP revision is complete and the agency has made management decisions for those lands consistent with BLM Manual 6320. The examples above illustrate BLM's authority and discretion to defer parcels while land use planning is ongoing.

c. BLM has failed to respond to significant new information submitted by the public regarding lands with wilderness characteristics.

Friends of Nevada Wilderness submitted inventory information to BLM in June 2016 for the Sulphur Springs area (attached to these comments as Exhibit 1). That inventory information meets the minimum standards for review of new information set forth in BLM Manual 6310:

- i. a map of sufficient detail to determine specific boundaries of the area in question;
- ii. a detailed narrative that describes the wilderness characteristics of the area and documents how that information substantially differs from the information in the BLM inventory of the area's wilderness characteristics; and
- iii. photographic documentation.

BLM Manual 6310 at .06(B)(1)(b). When BLM receives information that meets these minimum standards, the agency is directed to review the information "as soon as practicable," "make the findings available to the public," and "retain a record of the evaluation and the findings as evidence of the BLM's consideration." *Id.* at .06(B)(2). BLM has not yet responded to the inventory information for Sulphur Springs submitted by Friends of Nevada Wilderness.

Specifically, the following parcels are all or partially within the Sulphur Springs LWC unit submitted by Friends of Nevada Wilderness:

NV-17-06-053	NV-17-06-054	NV-17-06-055	NV-17-06-056
NV-17-06-057	NV-17-06-060	NV-17-06-061	NV-17-06-063
NV-17-06-064	NV-17-06-065	NV-17-06-083	

The decision to ignore public input on affected wilderness resources likely contravenes the "hard look" requirement of NEPA. *See* 42 U.S.C. § 4332(2)(C). Numerous courts have applied the hard look mandate to overturn agency decisions that ignored substantive, relevant wilderness information provided by the public, including citizen-submitted wilderness inventories. *See, e.g., Or. Natural Desert Ass'n v. Rasmussen*, 451 F. Supp. 2d 1202, 1211-13 (D. Ore. 2006) (holding that BLM violated the hard-look requirement of NEPA when it dismissed a citizen-submitted inventory "[w]ith a broad brush"); *SUWA v. Norton*, 457 Supp. 2d 1253 1263-65 (D. Utah 2006) ("...Utah BLM ignored significant new information...information provided by the Southern Utah Wilderness Alliance...presented a textbook example of significant new information about the affected environment (the wilderness attributes and characteristics...)"); *Biodiversity Conservation Alliance*, 183 IBLA 97, 2013 IBLA Lexis *1, *28-*29 (2013) (rejecting a claim that BLM violated the hard-look requirement where BLM "specifically evaluated citizens' wilderness proposals [so that the citizens' proposals had] become administratively final...").

Here, BLM has not taken the requisite "hard look" at how the sale of the parcels listed above would affect wilderness resources in the Battle Mountain District, as required by the cases cited above. The Battle Mountain District has disregarded substantive new information submitted by the public describing wilderness values that would be affected by the lease sale. Although BLM is not obligated to agree with any public assessment of the wilderness values affected by the lease sale, NEPA requires that the agency at least take a hard look at a complete and accurate inventory of wilderness values in the planning area. BLM cannot be said to have taken the requisite hard look where, as here, the agency ignored significant new information.

Furthermore, even if the agency were found to have considered, and decided against, an inventory update, the decision not to update would likely be found arbitrary and capricious under the Administrative Procedure Act (APA). See 5 U.S.C. § 706. Since its most recent wilderness inventory update, the Battle Mountain District has failed to respond to multiple citizen-submitted wilderness inventories for lands under its jurisdiction, all of which meet the “minimum standards for further review” as defined by BLM Manual 6310. See BLM Manual 6310 at .06(B)(1). Since BLM’s last inventory update in 2013, Friends of Nevada Wilderness has submitted 25 additional LWC inventories. Additionally, the Battle Mountain District has yet to respond to comments submitted by Friends of Nevada Wilderness in June 2016 that identified deficiencies with four of BLM’s LWC inventories. Nor has the most recent inventory for the Battle Mountain District been incorporated into the land use plans that are being applied to the June 2017 Lease Sale. Surely, BLM cannot conduct a deficient wilderness inventory, ignore citizen inventories and comments submitted in response to its inventory, and then rely on its inventory to make project-level decisions that could compromise wilderness quality lands within its jurisdiction. Since the agency has no obligation to involve the public during its inventory process, the duty to maintain a current inventory, which includes the obligation to consider updates before project-level decisions, was doubtlessly designed to safeguard wilderness lands, as well as the public interest in protecting those lands. Given the volume of comments and inventories that the Battle Mountain District has yet to respond to, any agency decision not to update its existing inventory in light of this information would likely constitute an abuse of agency discretion under the APA.

BLM must defer all of these parcels until the agency has updated its inventory for the Sulphur Springs area in response to the significant new information submitted by Friends of Nevada Wilderness. For all areas that BLM finds to possess wilderness characteristics, BLM must defer leasing until the Battle Mountain RMP revision is complete and the agency has made management decisions for those lands consistent with BLM Manual 6320.

d. Offering the lease parcels in the Battle Mountain District that may possess wilderness characteristics would violate NEPA.

BLM has not evaluated a reasonable range of alternatives for protecting the wilderness characteristics of parcels in the Battle Mountain District. Under NEPA, BLM must consider a broad range of alternatives to mitigate environmental impacts. 40 C.F.R. § 1502.14(a); see also *Theodore Roosevelt Conservation P’ship v. Salazar*, 661 F.3d 66, 72-73 (D.C. Cir. 2011) (requiring BLM to consider a reasonable range of alternatives for oil and gas activity); IM 2010-117 (requiring consideration of “alternatives to the proposed action that may address unresolved resource conflicts.”). Additionally, under current policies, BLM must fully “consider” wilderness characteristics during planning actions and evaluate a range of measures to protect wilderness characteristics during the leasing process, including measures not contained in existing RMPs. See IM 2011-154 at Att. 2; IM 2010-117 at III. E., F.

A “rule of reason” is used to determine if an adequate range of alternatives have been considered; this rule is governed by two guideposts: (1) the agency’s statutory mandates; and (2) the objectives for the project. *New Mexico ex rel. Richardson*, 565 F.3d at 708. Here, there is no doubt that BLM’s legal mandates under FLPMA and NEPA require it to fully consider the protection of wilderness values, and under IM 2010-117, the agency must treat the “protection of other important resources and values” as an equally important objective to leasing.

Yet, in the Draft EA, the BLM has failed to evaluate an adequate range of alternatives that would protect the wilderness characteristics of parcels in the Battle Mountain District from the impacts of the lease sale. Such alternatives include offering the parcels with NSO stipulations or deferring the parcels. Because the BLM has not considered those alternatives, or additional alternatives to protect the wilderness characteristics of the proposed parcels, it must defer the parcels from the lease sale.

III. Unavoidable resource conflicts

The EA documents that the proposed action – offering all preliminary lease parcels in the June 2017 lease sale – would have unacceptable impacts on public lands resources. In developing the EA, BLM not only determined that more than half of the proposed lease parcels conflict with important public lands resources and those conflicts can not be avoided with stipulations in the existing RMPs, but BLM also went through the exercise of developing a “partial deferral” alternative and new stipulations that could and should be adopted in the revised Battle Mountain RMP to address those conflicts. The analysis included in the EA thus demonstrates unequivocally that BLM must adopt the partial deferral alternative or apply new stipulations to those parcels.

As the D.C. Circuit explained in *Sierra Club v. Peterson*, BLM must not base a FONSI on the bare assertion that oil and gas leases are not likely to be developed; instead, enforceable mitigation must be developed, evaluated and imposed, or an EIS must be prepared. 717 F.2d 1409, 1414 (D.C. Cir. 1983). In *Peterson*, BLM issued several oil and gas leases on national forest land in Idaho and Wyoming. BLM did so by issuing an EA/FONSI in which it expressly declared that “few issued leases result in active exploration operations and still fewer result in discovery or production of oil or gas” and “concluded that any impacts which might result from the act of leasing would either be insignificant or, if significant, could be mitigated by exercising controls in the lease stipulations.” The court rejected that conclusion, stating that

[w]hile it may well be true that the majority of these leases will never reach the drilling stage and that the environmental impacts of exploration are dependent upon the nature of the activity, nevertheless NEPA requires that federal agencies determine at the outset whether their major actions can result in “significant” environmental impacts. Here, the Forest Service concluded that any impacts which might result from the act of leasing would either be insignificant or, if significant, could be mitigated by exercising the controls provided in the lease stipulations.

Even assuming, *arguendo*, that all lease stipulations are fully enforceable, once the land is leased the Department no longer has the authority to *preclude* surface disturbing activities even if the environmental impact of such activity is significant. The Department can only impose “mitigation” measures upon a lessee who pursues surface disturbing exploration and/or drilling activities. None of the stipulations expressly provides that the Department or the Forest Service can *prevent* a lessee from conducting surface disturbing activities. Thus, with respect to the smaller area with which we are here concerned, the decision to allow surface disturbing activities has been made at the *leasing stage* and, under NEPA, this is the point at which the environmental impacts of such activities must be evaluated.

Id. at 1413-14 (emphasis in original). Here, the BLM has committed the same mistake. It is concluding that any impacts of the proposed leases would be insignificant because “recent

exploration and development history provides a basis for estimating a low development potential for oil and gas disturbance” and/or that even if impacts are significant, then they can be mitigated through existing lease stipulations. EA at 14. Yet, in violation of NEPA, none of the stipulations that could mitigate impacts to non-significant levels, including those discussed in Appendix C, were actually included in the proposed action.

In describing the internal scoping process, the EA states:

The ID Team also identified parcels to propose for deferral based on other resource concerns and land use conflicts that could not be resolved via stipulations in the existing RMPs as amended. For each proposed deferral, the ID Team recommended a new stipulation or other measure to address the issue via an upcoming revised RMP.

EA at 10. According to the environmental effects analysis, the 104,176 acres of parcels included in the partial deferral alternative are proposed for deferral due to sensitive wetlands, seeps and/or springs, floodplains, playas, steep slopes, and a segment of the Pony Express National Historical Trail. See, e.g., EA at 37, 51, 70.

To address these conflicts with oil and gas leasing, BLM developed Appendix C of the EA, which is comprised of BLM’s recommended new stipulations or other measures that could be incorporated into the revised Battle Mountain RMP to allow for responsible management of oil and gas resources. The EA clearly states: “The stipulations proposed at this time represent the Battle Mountain District’s current intentions for addressing the resource concerns.” EA at 144. However, the proposed action would result in offering all of the nominated lease parcels without these stipulations, apparently in contradiction of BLM’s intentions for addressing the resource concerns.

In order to avoid preparing an EIS, BLM must either defer the remaining leases from the sale or incorporate mitigation measures into the proposed action that would preserve the agency’s ability to fully avoid any future impacts of development. Measure the BLM should consider include the following, which are identified in Appendix C:

- No Surface Occupancy for sites eligible for National Register of Historic Places (NV-B-07-C-NSO)
- No Surface Occupancy for National Historic Trails (NV-B-07-D-NSO)
- No Surface Occupancy for water bodies, riparian and wetland areas (NV-B-10-A-NSO)
- Controlled Surface Use for a 500 ft. riparian-wetland habitat buffer (NV-B-10-B-CSU)
- No Surface Occupancy for 100-year floodplains (NV-B-10-C-NSO)
- No Surface Occupancy for seasonally flooded playas (NV-B-10-D-NSO)
- No Surface Occupancy for slopes >40% (NV-B-11-B-NSO)

Ibid.

BLM does have the authority to adopt new measures at the leasing stage that could preclude future development, if necessary to protect other resource values. For example, in *Yates Petroleum Corporation*, 174 IBLA 155 (2008), the Interior Board of Land Appeals (IBLA) affirmed the BLM’s authority to revise conditions of approval (COAs) for applications for permit to drill (APDs) to increase the stipulated seasonal buffers around sage-grouse leks from 2 to 3 miles, based on updated scientific information demonstrating previously conditioned smaller buffers as inadequate (looking at WAFWA studies). The IBLA based its conclusions in Section 6 of the standard oil and gas lease terms, which

provides that leases are subject to “reasonable measures” as needed to “minimize adverse impacts” to other resource values not otherwise addressed at the time of leasing. Thus, it follows that if BLM has the authority to adopt new, protective measures at the permitting stage, then it clearly does at the leasing stage, provided those measures are adequately evaluated in the relevant NEPA document.

Not only does the BLM have the authority to impose more protective measures in COAs, but the IBLA also required the BLM to consider such measures when a need exists for the agency to do so. In *William P. Maycock, et al.*, 177 IBLA 1 (March 16, 2009), the IBLA found that when the agency “acknowledges the validity of the more recent research that demonstrates that [previous] mitigation measures are not as effective as originally anticipated” the BLM is obligated to consider that a 2-mile seasonal buffer would not reduce the impacts of oil and gas drilling to insignificance. The BLM was required to reassess the potential mitigation measures included in the COAs prior to approving APDs. As a result, the BLM clearly has the legal *authority* to impose reasonable measures on existing and future leases and is *required to consider* the need for such measures.

In fact, BLM recognizes and implements its authority to add stipulations at the leasing stage to protect important resources. For example:

- New Mexico July 2012 Lease Sale: “One new stipulation has also been developed to protect resources within the 6 nominated parcels in the District. Those resource conflicts consist of areas that contain suitable Chihuahuan scurfpea habitat.” EA at 6.
- New Mexico July 2013 Lease Sale: “Three new stipulations are being identified, the first LC-51 CSU, is to protect resources such as playas and alkali lakes within areas that contain these features. The stipulation would prohibit surface disturbance within up to 200 meters of the outer edge of a playa or alkali lake, to protect the ecological and physical integrity of these features. . . . The second new stipulation is LC-52 CSU, to protect resources such as the floodplains within areas that contain these features. The stipulation would prohibit surface disturbance within up to 200 meters of the outer edge of 100 year floodplains, to protect the ecological and physical integrity of those floodplains. . . . The third new stipulation is LC-53 CSU, to protect private surface that is being used for cultivation. The stipulation would exclude surface disturbing activities associated with oil and gas development from occurring in areas used for cultivation. The BLM may consider on an individual application basis, an exception to this stipulation if the surface owner signs an agreement with the lessee or operator allowing the proposed surface-disturbing activity within the cultivated area. Each application submitted to the BLM must include a copy of any agreement signed by the surface owner.” EA at 7-8.
- Wyoming February 2012 Lease Sale: “The addition of 2,454 acres to the NSO onsite protection for two Patten Creek sites (48PL32/68) (1,506 acres) and one for Hell Gap site (48GO305) (948 acres) is warranted, as these acres have been determined, in consultation with Wyoming State Historic Preservation Officer (SHPO), as listed on or eligible for the National Register of Historic Places. This stipulation will be applied to parcel WY-1202-65.” EA at 26.

If BLM determines that it is necessary to amend the land use plans in order to apply these stipulations, then BLM must adopt the deferred parcel alternative. IM 2010-117 directs:

If a proposed change in the terms of a stipulation would change the degree of the constraint from moderate to major or would result in the creation of a new lease stipulation not

contemplated in the RMP, a plan amendment would likely be required and, if necessary, the parcel(s) should be withheld from leasing until the plan is amended. (Emphasis added.)

The EA clearly demonstrates unacceptable impacts to public lands resources associated with more than half of the proposed lease parcels; therefore BLM has no choice but to defer those parcels pending adoption of new stipulations in the Battle Mountain RMP.

IV. Problems associated with speculative leasing

There is very low potential for oil and gas development in the Battle Mountain District. According to the EA, in the Tonopah Field Office, only five wells entered production between 1997 and 2015, and the last well drilled in the Tonopah Field Office was in 2013. EA at 14. The EA goes on to state: The recent exploration and development history provides a basis for estimating a low development potential for oil and gas disturbance that might indirectly result from the June 2016 Competitive Oil and Gas Lease Sale." *Ibid.* Similarly for the Mount Lewis Field Office, the EA documents that there have only been four exploration wells authorized since 2003, with the last well being drilled in 2013 and all four wells now plugged. The EA concludes: "The potential for oil and gas exploration and production in the MLFO can also be considered low." *Id.* at 15.

Copeland et al. mapped oil and gas development potential across the West in 2009, and the results demonstrate that the Battle Mountain District would anticipate little or no development:

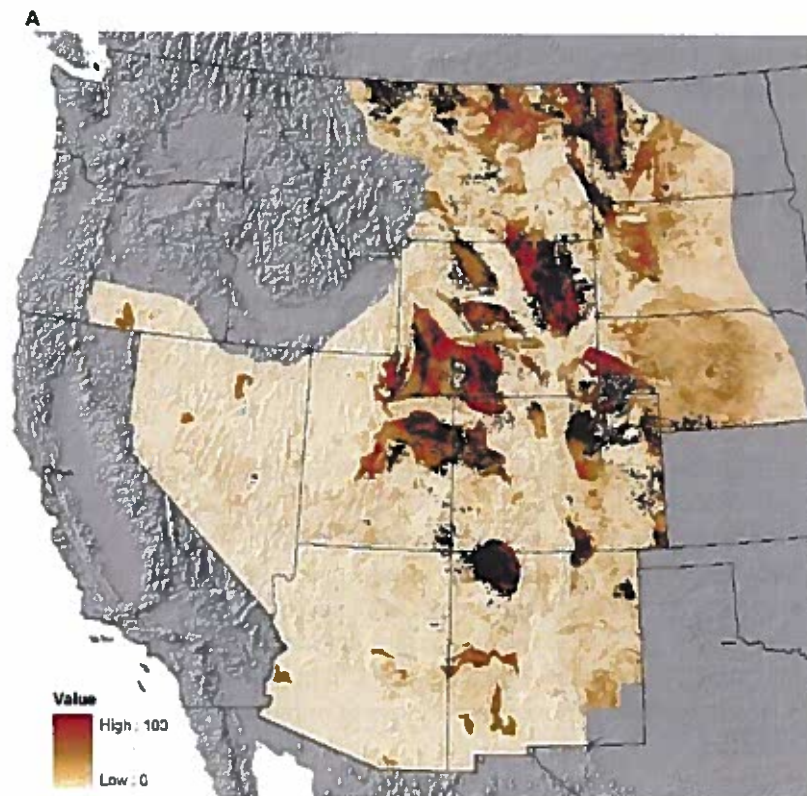


Figure A. Oil and Gas Development Potential in the US Intermountain West.²

² Journal article available online at: <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0007400>.

Due to the low development potential in the Battle Mountain District, any leases issued would be speculative in nature. Speculative leasing ties up public lands, creates unnecessary public conflict, and generates minimal revenue. One of the most egregious problems associated with speculative leasing is that existing oil and gas leases tend to preclude protective management of other resources, thus restricting BLM's ability to manage for other multiple uses.

For example, in the Colorado River Valley Resource Management Plan, BLM decided not to manage lands for the protection of wilderness characteristics in the Grand Hogback lands with wilderness characteristics unit based on the presence of oil and gas leases, even though the leases had never experienced any development:

The Grand Hogback citizens' wilderness proposal unit contains 11,360 acres of BLM lands. All of the proposed area meets the overall criteria for wilderness character...There are six active oil and gas leases within the unit, totaling approximately 2,240 acres. None of these leases shows any active drilling or has previously drilled wells. The ability to manage for wilderness characteristics in the unit would be difficult. If the current acres in the area continue to be leased and experience any development, protecting the unit's wilderness characteristics would be infeasible. . . .

Colorado River Valley PRMP (2015) at p. 3-135.

The Colorado River Valley RMP was finalized in July 2015, and within a year 5 of the 6 leases in the Grand Hogback lands with wilderness characteristics unit had expired. Yet, BLM has made a 20-year decision to not protect the wilderness qualities of this area.

Similarly, recently Wyoming BLM declined to manage the Rough Gulch area in the Cody Field Office for protection of wilderness characteristics because "64% of the area [was] covered] by oil and gas leases," even though the leases had never been drilled. Rough Gulch borders a WSA—the McCullough Peaks WSA—and has "very low" potential for oil and gas development. Like most federal leases, especially those in areas with low development potential, the leases in Rough Gulch were never drilled, and they expired within a year of the RMP being finalized. Yet, because the leases were in effect when Wyoming BLM made its land use planning decision for the area, BLM is not currently managing Rough Gulch for protection of wilderness characteristics.

Leases in low potential areas generate minimal revenue but can carry significant cost. In terms of revenue, they are most likely to be sold at or near the minimum bid of \$2/acre, and they are least likely to actually produce oil or gas and generate royalties.³ See Bighorn Basin PRMP (2015) at p. 73 ("Leasing may be based on speculation, with leases within high risk prospects usually purchased for the lowest prices."); White River PRMP (1996) at p. A-7 ("At any given time, most of the acreage that is available for oil and gas leasing in the WRRRA is under lease. . . . Most of the area is leased for speculative purposes and consequently only a small percentage of leases will ever be developed."). In terms of costs, leasing in low potential areas requires processing lease nominations, preparing environmental reviews, and resolving protests and resource use conflicts.

³ Center for Western Priorities, "A Fair Share" ("Oil Companies Can Obtain an Acre of Public Land for Less than the Price of a Big Mac. The minimum bid required to obtain public lands at oil and gas auctions stands at \$2.00 per acre, an amount that has not been increased in decades. In 2014, oil companies obtained nearly 100,000 acres in Western states for only \$2.00 per acre. . . . Oil companies are sitting on nearly 22 million acres of American lands without producing oil and gas from them. It only costs \$1.50 per year to keep public lands idle, which provides little incentive to generate oil and gas or avoid land speculation.").

On the other hand, limiting leasing in low potential areas conflicts the least with industry objectives and can confer significant public benefits. Low potential lands are the “low-hanging fruit” by which the BLM can fulfill other objectives of its multiple-use mission, such as managing for wilderness, wildlife and recreation. Yet, as described above, speculative leases on low potential lands can prevent the BLM from otherwise managing lands for alternative purposes and fulfilling its multiple-use mandate. *See also* White River DRMPA (2012) at p. 4-377 (“... authorized oil and gas uses would likely preclude other incompatible land use authorizations”). In addition, limiting exploration and development on low potential lands necessarily conflicts the least with industry objectives. As discussed in the Bighorn Basin PRMP (2015):

[A]lternatives D and F place additional stipulations on oil and gas-related surface disturbances in the Absaroka Front, Fifteenmile, and Big Horn Front MLP analysis areas for the protection of big game, geologic features, and LRP soils. As a result, alternatives D and F could have additional adverse impacts on oil and gas development in these MLP analysis areas. . . . However, because of the generally low to very low potential for oil and gas development and redundancies with other restrictions on mineral leasing from the management of other program areas, management specific to the MLP is less likely to adversely affect oil and gas development in these areas.

Bighorn Basin PRMP at p. 4-87; *see also* White River DRMP (1994) at p. 4-21 (“Prohibiting development in Class I areas would not affect oil and gas production because oil and gas potential in these areas is low.”).

In summary, leasing lands with low potential for oil and gas development – speculative leasing – carries significant costs by precluding BLM from managing for other multiple uses, creating unnecessary public conflict, and wasting agency resources while generating minimal revenue.

Conclusion: BLM should defer this lease sale until the Battle Mountain RMP revision is complete or BLM Nevada conducts updated oil and gas planning.

Given the issues outlined above, the low development potential in the Battle Mountain District, and the high costs associated with speculative leasing, BLM should defer this lease sale until the agency conducts and completes updated analysis to support new leasing, such as through the RMP revision or a programmatic oil and gas analysis, and a modern management approach to oil and gas leasing and development can be implemented. For example, the BLM Las Cruces District is currently deferring oil and gas leasing while it completes the TriCounty RMP: “Leasing of the Federal minerals in Sierra, Otero, and Doña Ana Counties are and will be deferred until a Record of Decision (ROD) for the TriCounty Resource Management Plan (RMP) is signed.”⁴

The Tonopah and Shoshone-Eureka Resource Management Plans were last revised in 1997 and 1986, respectively. EA at 8-9. Thus, BLM is tiering to environmental analysis that is 20-30 years old in analyzing this lease sale. A great deal of resource information has changed since then, including oil and gas development potential and public lands resource inventories, and the agency has many new policies that are relevant to oil and gas management on our public lands. The Battle Mountain District would

⁴ https://www.blm.gov/nm/st/en/fo/Las_Cruces_District_Office/tricounty_rmp.html, accessed Feb. 3, 2017.

therefore be well-served by an updated analysis and management plan to guide leasing and development.

If BLM moves forward with any oil and gas leasing in the Battle Mountain District prior to completing additional planning, the agency should implement interim measures to preserve its ability to protect public lands resources that are encumbered by leases. These could include:

- Applying more protective stipulations and/or conditions of approval through leasing EAs
- Attaching lease notices for specific resources, including for potential mitigation requirements

However, we emphasize that these interim measures would not relieve the agency of its obligations under FLPMA and NEPA to inventory and analyze public lands resources when conducting oil and gas leasing.

Thank you for considering these comments. Please contact us with any questions.

Sincerely,

Juli Slivka, Planning Specialist
The Wilderness Society
11050 Pioneer Trail, Ste. 202
Truckee, CA 96161
(303) 650-1179
jslivka@tws.org

Attachment

1. Exhibit 1: Friends of Nevada Wilderness, Citizen-Submitted Wilderness Characteristics Inventory Information for Sulphur Springs

EXHIBIT 2

Friends of Nevada Wilderness (FNW)
Citizen-Submitted Wilderness Characteristics Inventory Information

CITIZEN NAME: Sulphur Springs

BLM UNIT NAME: Sulphur Springs

BLM UNIT NUMBER: NV-060-543

Narrative documentation of how the Citizen-Submitted information substantially differs from the information in the BLM inventory of the area's wilderness characteristics (as per BLM Manual 6310; .06; B; 1; b; ii.)

The only information from the BLM that Friends of Nevada Wilderness (FNW) could locate about the wilderness characteristics for this unit were found in the BLM 1979 Initial Inventory Decisions. The BLM information within that 1979 document is summarized below.

NOTE: Upon reviewing the BLM 1979 Initial Inventory Decisions, FNW found several inconsistencies within the descriptions. The Introduction states: *"[t]he intent of the initial phase of the wilderness inventory is to eliminate from further wilderness consideration those lands that beyond doubt clearly lack wilderness characteristics."* Although the purported intention of this document is to make decision about wilderness characteristics that are *"beyond doubt,"* the methodology used by the BLM raises serious doubts. The 1979 Decisions also states that the *"beyond doubt"* determination used by the BLM is based on eliminating *"...lands that nearly everyone can agree do not have wilderness values. Very little field work and written documentation were required to verify that these lands are definitely lacking wilderness qualities."* Furthermore, the 1979 document states: *"[t]his document includes a summary of public comments received for each area in the State, and explains whether or not the comments changed our original recommendation."* Both of these methodologies rely on preconceived notions and subjective opinion.

Although this may have been a valid approach in 1979, it is not in alignment with the scientific-based FLMPA mandate to [Sec. 201. [43 U.S.C. 1711] (a) ...*"prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values,"* and (c)(2) *"use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences."* Nor is abiding by the 1979 approach and decision in the best interest of current BLM Manual 6310 Guidelines.

SUMMARY OF BLM 1979 INITIAL INVENTORY DECISION for NV-060-543

UNIT NUMBER NV-060-543

NAME Sulphur Springs

PUBLIC LAND ACREAGE 35,800

ORIGINAL RECOMMENDATION: *Area to be intensively inventoried.*

SUMMARY OF PUBLIC COMMENT RECEIVED: *Of 11 comments received, six disagreed noting roads or intrusions. Five comments supported the recommendation.*

FINAL DECISION: *35,800 acres will be dropped from further wilderness consideration.*

Friends of Nevada Wilderness (FNW)
Citizen-Submitted Wilderness Characteristics Inventory Information

RATIONALE: *In response to public comments that were verified by a field check, the Bureau has decided that the area clearly lacks wilderness characteristics and should be dropped from further wilderness consideration.*

FNW FINDINGS for NV-060-543

CHARACTERISTICS INVENTORIED:

1. Size: The BLM 1979 Initial Inventory Decisions documented Unit 543 as being 35,800 acres. The 2015 FNW Inventory is smaller and describes this roadless area as 29,916 acres. The 2015 FNW inventory eliminated areas with human disturbances that would detract for the wilderness characteristics of the unit. The FNW Inventory also found several of the posited "roads" within the unit failed to meet the criteria for "a road" under BLM Manual 6310 guidelines. (See Appendix C: Route Analysis for more information on routes and boundaries.)

2. Naturalness: The BLM 1979 Initial Inventory Decisions did not discuss the naturalness of the unit. The Initial Inventory did state, however, that the public comments *"noting roads or intrusions"* that *"were verified by a field check"* provided the Bureau with the bases for dropping the area from further wilderness consideration. The Bureau then stated that these impacts led to their decision that *"the area clearly lacks wilderness characteristics."* The 2015 FNW inventory found that after defining boundaries that effectively eliminated roads and human disturbances, 29,916 contiguous acres of this unit appeared to be affected primarily by natural processes. (See Wilderness Characteristics Form 2 provided with the FNW Inventory of this unit for more information about the naturalness of this unit.)

3. Outstanding Opportunities for:

A. Solitude: The BLM 1979 Initial Inventory Decisions did not discuss the opportunities for solitude within this unit. The 2015 FNW inventory of this unit found multiple outstanding opportunities for solitude throughout the unit. The basis for this finding of solitude is included within the Wilderness Characteristics Form 2 provided with the FNW Inventory of this unit. The FNW inventory based these findings for solitude on the current BLM Manual 6310 guidelines. The most significant changes in these current guidelines since the initial decisions were made is: *"[a]n area can have wilderness characteristics even though every acre within the area may not meet all the criteria. The boundary should be determined largely on the basis of wilderness inventory roads and naturalness rather than being constricted on the basis of opportunity for solitude or primitive and unconfined recreation."*

B. Primitive and Unconfined Type of Recreation: The BLM 1979 Initial Inventory Decisions did not discuss the opportunities for primitive and unconfined recreation within this unit. The 2015 FNW inventory of this unit found both outstanding opportunities in several primitive and unconfined types of recreation and a diversity of recreational opportunities within the unit. The basis for these findings of primitive and unconfined type of recreation is included within the Wilderness Characteristics Form 2 provided with the FNW Inventory of this unit. The FNW inventory based these findings for primitive and unconfined type of recreation on the current BLM Manual 6310 guidelines. One of the more significant changes in these current guidelines since the initial decisions were made is: *"[t]he presence of water is not essential for an outstanding primitive recreation opportunity."*

Friends of Nevada Wilderness (FNW)
Citizen-Submitted Wilderness Characteristics Inventory Information

FNW is providing the BLM with New Information about Unit NV-060-543:

The wilderness characteristics generated from the FNW 2015 Inventory for the unit substantially differ from the information in the BLM 1979 Initial Inventory Decisions on the area's wilderness characteristics. Under current 6310 guidelines, FNW recommends that this unit should be re-considered for LWC status.

**WILDERNESS CHARACTERISTICS INVENTORY
INVENTORY AREA EVALUATION (FORM 2)**

Current Conditions: Presence or Absence of Wilderness Characteristics

Area Unique Identifier: Sulphur Springs (NV-060-543)

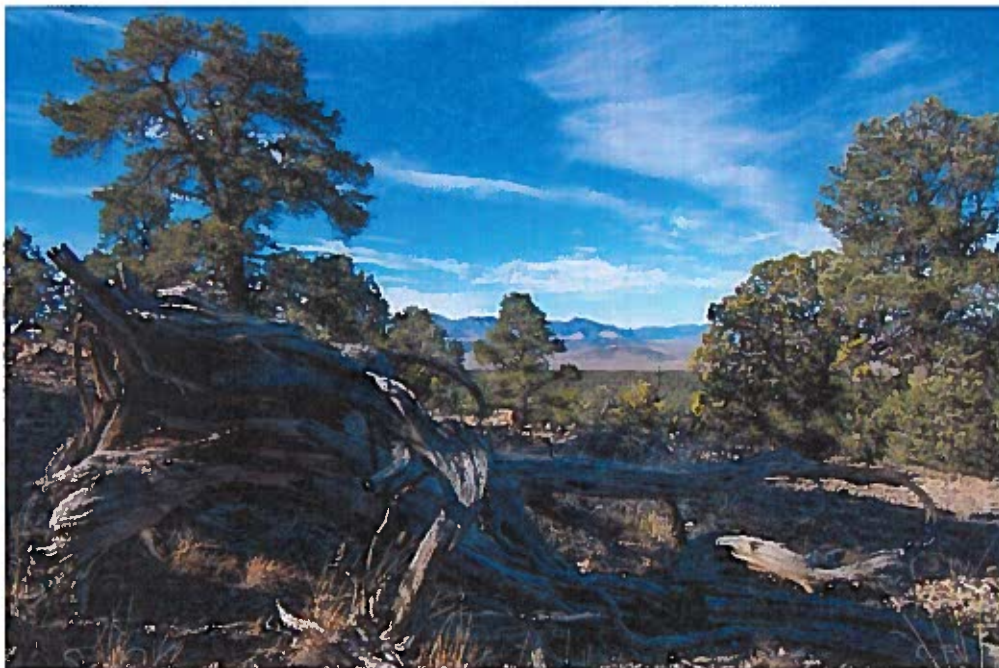
Acreage: 29,916

(If the inventory area consists of subunits, list the acreage of each and evaluate each separately).
In completing steps (1)-(5), use additional space as necessary.

(1) Is the area of sufficient size? (If the area meets one of the exceptions to the size criterion, check "Yes" and describe the exception in the space provided below),

YES

Description (describe the boundaries of the area--wilderness inventory roads, property lines, etc): **The east boundary follows the Saddler Brown road and steps-in in places to exclude private property and associated development. The southern boundary follows the Bailey Pass Road. The west boundary is complex. The southern portion of the west boundary follows a route from the Bailey Pass Road north to the historic Prince of Wales Mine. Here, the boundary steps around the main mining disturbances then continues in a north westerly direction nearly to State route 278. The west boundary continues north on a minor route parallel to State Route 278 to the eastern side of the private property at Chimney Springs. From here the west boundary steps eastward following a mix of minor routes and arbitrary lines to exclude the historic mining disturbances associated with Old Whalen Mining district. The west boundary joins a substantial route, which parallels the base of the mountains north of the Old Whalen Mine. This route continues north, west of Bald Mountain and through Bald Mountain Well. This west boundary route ends at Telegraph Canyon Road. The north boundary of the unit is formed by Telegraph Canyon Road.**



Sulphur Springs-1

(2) Does the area appear to be natural?

YES

Note: If "No" is checked the area does not have wilderness characteristics; check "NA" for the remaining questions below.

Description (include land ownership, location, topography, vegetation, and summary of major human uses/activities):

This area is predominantly natural and controlled by wild forces. All of the unit as described by the FNW inventory is comprised of public lands administered by the BLM. The core of the unit is consists of a 13-mile limestone backbone of the Sulphur Springs Range. This rugged range towers to an elevation over 8000 feet and is heavily covered by a dense pinion/juniper woodland. Craggy limestone outcrops and cliffs can be found throughout the unit and impenetrable thickets of mountain mahogany can be found associated with the limestone formations. Bitter brush is also found throughout the unit. The volcanic intrusion of Bald Mountain creates a striking contrast with the limestone landscape and provides soils more conducive to sagebrush meadows. Other volcanic intrusions create the rolling foothills on both the east and west margins of the unit. These lower elevations include scattered stands of pinion/juniper interspaced with sagebrush, rabbit brush, and a host of grass lands comprised of squirrel tail, rice grass, great basin wild rye, and crested wheat grass. Several springs within or adjacent to the unit provide critical water resources for wildlife. Wildlife is abundant here, as evidenced by ample scat and other signs. Mule deer is the predominate herbivore, while smaller animals are also plentiful. Reptiles, rodents, and predators all exist here in this rich ecosystem. Birds of prey roost in the many cliffs and rocks, and can often be seen soaring high above. Ravens and other members of the jay family are frequent visitors. Smaller sage and pinyon habitat birds nest here as well. This unit provides sage grouse habitat. Several recent fires have burnt along the lower, northwestern flank of the unit. The 2013 FNW inventory of this unit found that the entirety of the unit appears to be affected primarily by the forces of nature.

(3) Does the area (or the remainder of the area if a portion has been excluded due to unnaturalness and the remainder is of sufficient size) have outstanding opportunities for solitude?

YES

Description (describe the area's outstanding opportunities for solitude): **Dense stands of pinion and juniper found scattered throughout the canyons and the aprons of this unit provide outstanding opportunities for solitude and for finding secluded spots. The convoluted terrain of the rugged backbone of this unit combines with nearly 2000 feet of vertical relief adds a deeper dimension to the outstanding opportunities for solitude in this unit. The highest elevations rise far above the surrounding roads and valleys and provide seclusion in craggy rock outcrops and among stands of mountain mahogany. Out here one gets a sense that they are truly alone. It is quiet except for wind through the hills and the occasional call of animals. This is truly a remote and isolated place.**



(4) Does the area (or the remainder of the area if a portion has been excluded due to unnaturalness and the remainder is of sufficient size) have outstanding opportunities for primitive and unconfined recreation?

YES

Description (describe the area's outstanding opportunities for primitive and unconfined recreation):

This unit offers outstanding opportunities for primitive and unconfined recreation. Nearly every inch of this unit is accessible to the visitor with the determination and skills to traverse trackless wilderness. Hiking and backpacking the rugged 13 mile crest of this unit provides a challenging and outstanding opportunity primitive and unconfined recreation. Many birds and wildlife are present as well, providing opportunities for viewing and excellent hunting. Mule deer and chukar are some of the animals available for game. Rock scrambling routes abound in the solid limestone canyons, ridges, and along the crest of the unit. Here the rock is firm and has plentiful holds. Rock alcoves and shallow caves present opportunities for shelter and exploration. Other activities include: cross country skiing; snowshoeing; orienteering, landscape painting and sketching; rock scrambling; hiking; ; backpacking; rock hounding; geological sight-seeing, bird watching; primitive camping; horseback riding, hunting, and nature studies. The 2015 FNW Inventory found this area has outstanding opportunities for primitive and unconfined recreation in hiking, exploration, and photography. The 2013 FWN Inventory also found that this area has a wide diversity of recreational opportunities.

This unit is within one of the darkest regions of the United States. The opportunities for star gazing and night sky photography are truly outstanding. The 2015 FNW inventory found that

this unit offers outstanding opportunities for primitive and unconfined recreation in a variety of different activities.



(5) Does the area have supplemental values (ecological, geological, or other features of scientific, educational, scenic or historical value)?

YES

Description:

The wildness, remoteness, and natural integrity of this unit provide unparalleled opportunities for studies in natural history, geology, and ecology. The limestone ridges of the unit provide outstanding examples of sedimentary geological structures. The limestone and volcanic contact zones within the unit provide rockhounds with the opportunity to study the mineral assemblages and associated mineral intrusions.



FRIENDS of NEVADA WILDERNESS

Sulphur Springs

Wilderness Characteristics Inventory

Appendix C: Route Analysis (RA)



FRIENDS of NEVADA WILDERNESS





FRIENDS of NEVADA WILDERNESS

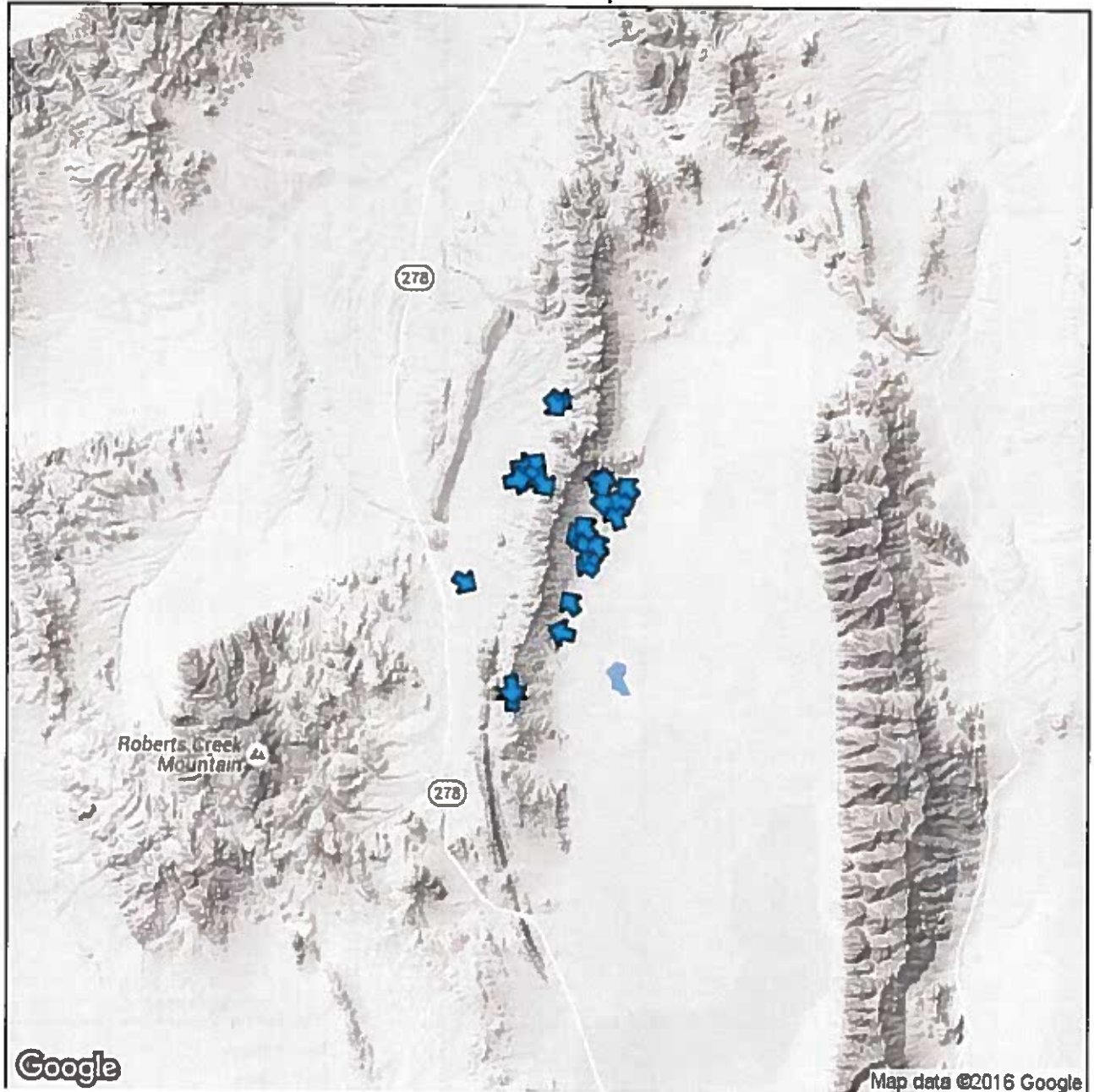
Sulphur Springs Wilderness Characteristics Inventory

Appendix C: Route Analysis (RA)



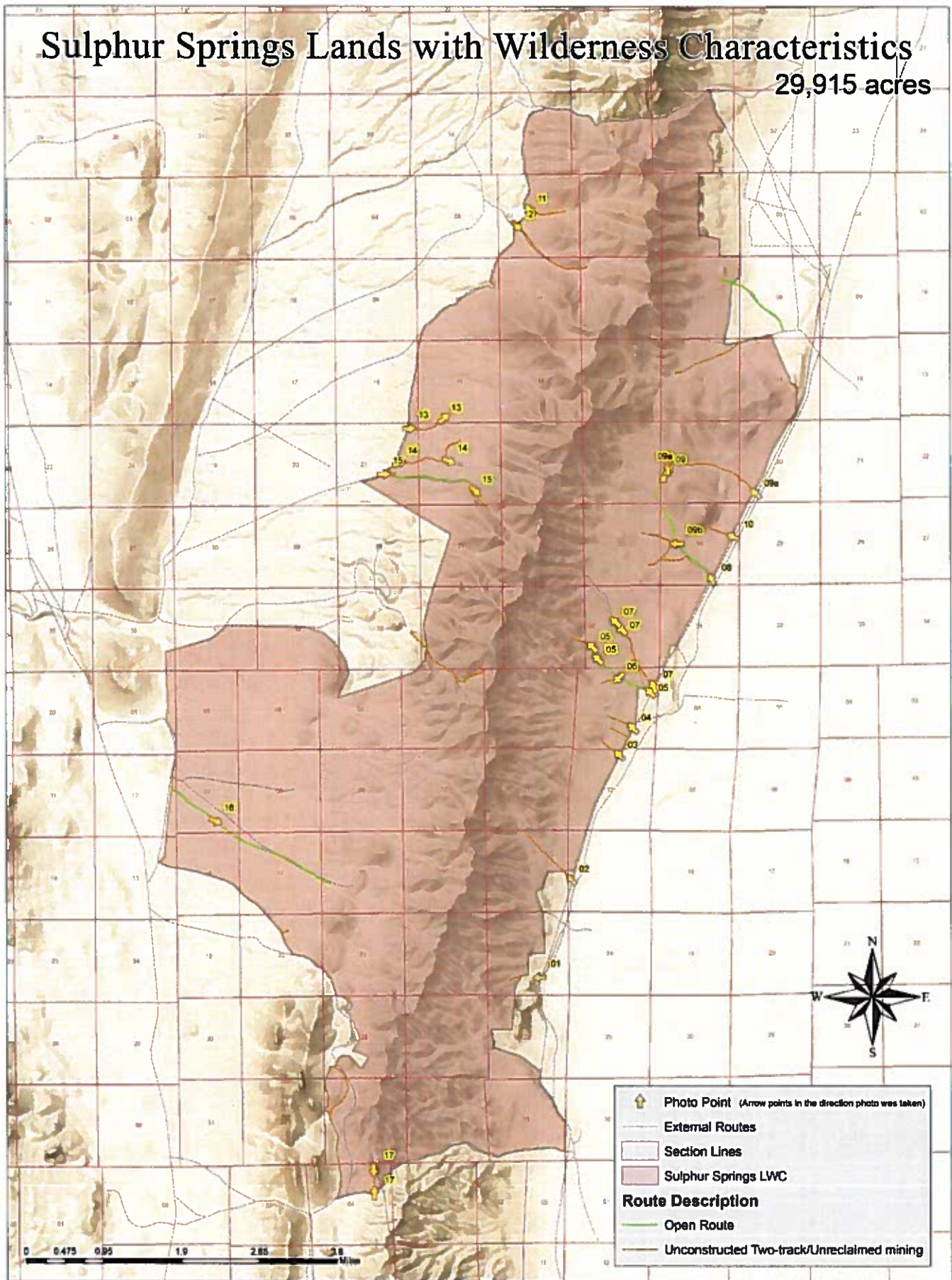
FRIENDS of NEVADA WILDERNESS

Overview Map

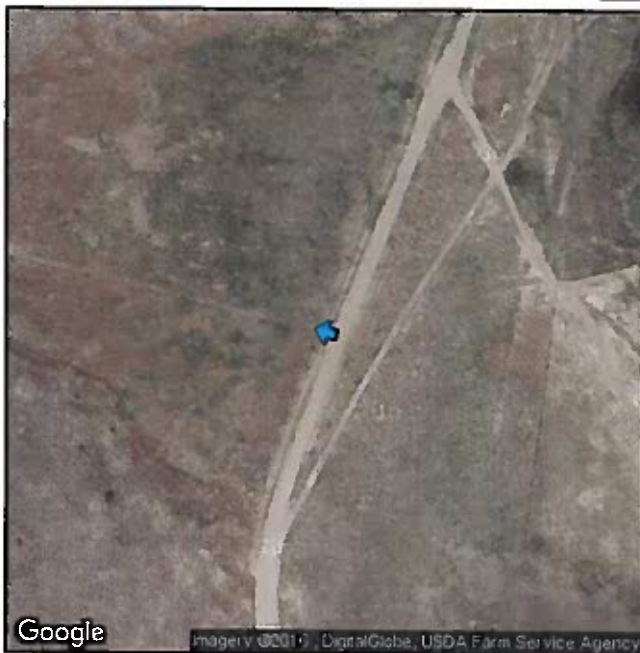


Sulphur Springs Lands with Wilderness Characteristics

29,915 acres



Sulphur Spring RA: 01
Origin



Sulphur Spring RA: 01	
Sulphur Spring RA	01
Route Reference	Origin
Detail	The heaviest use on this route turns south to create the boundary of the unit. A very minor, undeveloped route branches off and enters to the unit less than 1/4 mile- that route should be closed and rehabed.
File Name	GeoJot+ 2015-10-13 13_53_09.jpg
Title	
Latitude	N 39° 56' 32"
Longitude	W 116° 04' 34"
Map Datum	WGS-84
Time Stamp	2:52:50 PM
Date Stamp	10/13/2015
Elevation	5663 ft
Photo Direction	286° WNW
Photo Direction	W
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	Inconclusive
III A1 Construction	Bladed?
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Medium
Use- ATV/MC	Medium
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Did not follow route to the terminus

Sulphur Spring RA: 02
Origin



Sulphur Spring RA: 02	
Sulphur Spring RA	02
Route Reference	Origin
Detail	Revegetated
File Name	GeoJot+ 2015-10-13 13_58_50.jpg
Title	
Latitude	N 39° 57' 34"
Longitude	W 116° 04' 07"
Map Datum	WGS-84
Time Stamp	2:58:30 PM
Date Stamp	10/13/2015
Elevation	5764 ft
Photo Direction	324° NW
Photo Direction	W
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route

Sulphur Spring RA: 03
Origin



Sulphur Spring RA: 03	
Sulphur Spring RA	03
Route Reference	Origin
Detail	
File Name	GeoJot+ 2015-10-13 14_03_51.jpg
Title	
Latitude	N 39° 58' 52"
Longitude	W 116° 03' 26"
Map Datum	WGS-84
Time Stamp	3:03:32 PM
Date Stamp	10/13/2015
Elevation	5764 ft
Photo Direction	310° NW
Photo Direction	W
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Did not follow route to the terminus

Sulphur Spring RA: 04
Origin



Sulphur Spring RA: 04	
Sulphur Spring RA	04
Route Reference	Origin
Detail	Revegetated
File Name	GeoJot+ 2015-10-13 14_07_07.jpg
Title	
Latitude	N 39° 59' 09"
Longitude	W 116° 03' 14"
Map Datum	WGS-84
Time Stamp	3:06:48 PM
Date Stamp	10/13/2015
Elevation	5797 ft
Photo Direction	307° NW
Photo Direction	W
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Did not follow route to the terminus

Sulphur Spring RA: 05
Origin



Sulphur Spring RA: 05	
Sulphur Spring RA	05
Route Reference	Origin
Detail	
File Name	GeoJot+ 2015-10-13 14_10_13.jpg
Title	
Latitude	N 39° 59' 32"
Longitude	W 116° 02' 59"
Map Datum	WGS-84
Time Stamp	3:09:54 PM
Date Stamp	10/13/2015
Elevation	5843 ft
Photo Direction	304° NW
Photo Direction	W
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	Inconclusive
III A1 Construction	Bladed?
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Medium
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	N/A

Sulphur Spring RA: 05
Route Detail



Sulphur Spring RA: 05	
Sulphur Spring RA	05
Route Reference	Route Detail
Detail	Trees encroaching on route- not suitable for vehicles beyond this point
File Name	GeoJot+ 2015-10-13 14_19_28.jpg
Title	
Latitude	N 39° 59' 53"
Longitude	W 116° 03' 42"
Map Datum	WGS-84
Time Stamp	3:19:09 PM
Date Stamp	10/13/2015
Elevation	6148 ft
Photo Direction	317° NW
Photo Direction	NW
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Low
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehab/Revegetate route beyond this point

Sulphur Spring RA: 05
Route Detail



Sulphur Spring RA: 05	
Sulphur Spring RA	05
Route Reference	Route Detail
Detail	
File Name	GeoJot+ 2015-10-13 14_25_48.jpg
Title	
Latitude	N 40° 00' 01"
Longitude	W 116° 03' 47"
Map Datum	WGS-84
Time Stamp	3:25:29 PM
Date Stamp	10/13/2015
Elevation	6270 ft
Photo Direction	326° NW
Photo Direction	NW
II Route Context-Historic	Wood Cutting
II Route Context-Contemporary	Recreation
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare virtually no use beyond this point
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Did not follow route to the terminus

Sulphur Spring RA: 06
Origin



Sulphur Spring RA: 06	
Sulphur Spring RA	06
Route Reference	Origin
Detail	Revegetated
File Name	GeoJot+ 2015-10-13 14_41_51.jpg
Title	
Latitude	N 39° 59' 42"
Longitude	W 116° 03' 25"
Map Datum	WGS-84
Time Stamp	3:41:32 PM
Date Stamp	10/13/2015
Elevation	6060 ft
Photo Direction	236° SW
Photo Direction	SW
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route

Sulphur Spring RA: 07
Origin



Sulphur Spring RA: 07	
Sulphur Spring RA	07
Route Reference	Origin
Detail	Route has no known purpose
File Name	GeoJot+ 2015-10-13 14_48_08.jpg
Title	
Latitude	N 39° 59' 35"
Longitude	W 116° 02' 57"
Map Datum	WGS-84
Time Stamp	3:47:49 PM
Date Stamp	10/13/2015
Elevation	5823 ft
Photo Direction	329° NNW
Photo Direction	NW
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Low
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	N/A

Sulphur Spring RA: 07
Route Detail



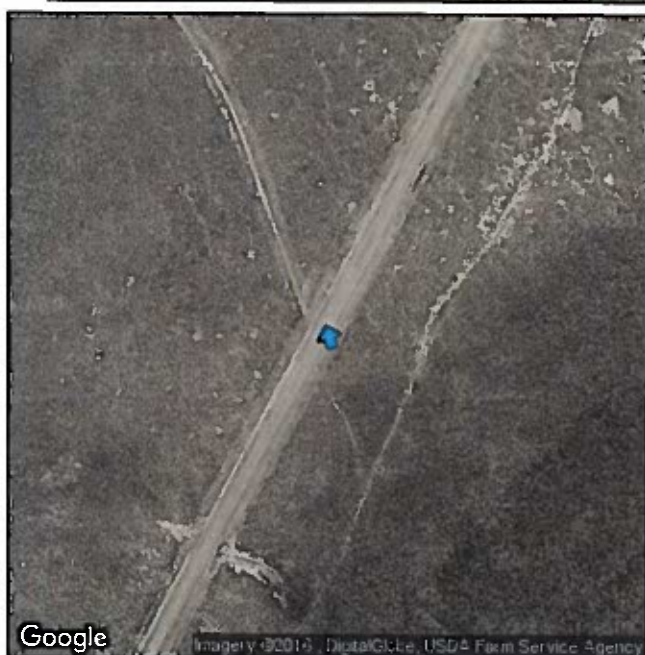
Sulphur Spring RA: 07	
Sulphur Spring RA	07
Route Reference	Route Detail
Detail	Trees encroaching on route- not suitable for vehicles beyond this point
File Name	GeoJot+ 2015-10-13 14_56_08.jpg
Title	
Latitude	N 40° 00' 12"
Longitude	W 116° 03' 23"
Map Datum	WGS-84
Time Stamp	3:55:49 PM
Date Stamp	10/13/2015
Elevation	6053 ft
Photo Direction	316° NW
Photo Direction	NW
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	N/A

Sulphur Spring RA: 07
Route Detail



Sulphur Spring RA: 07	
Sulphur Spring RA	07
Route Reference	Route Detail
Detail	Washout
File Name	GeoJot+ 2015-10-13 15_01_48.jpg
Title	
Latitude	N 40° 00' 17"
Longitude	W 116° 03' 27"
Map Datum	WGS-84
Time Stamp	4:01:28 PM
Date Stamp	10/13/2015
Elevation	6040 ft
Photo Direction	321° NW
Photo Direction	NW
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route

Sulphur Spring RA: 09
Origin [ERROR: mislabeled 08]



Sulphur Spring RA: 09	
Sulphur Spring RA	09
Route Reference	Origin [ERROR: mislabeled 08]
Detail	
File Name	GeoJot+ 2015-10-13 15_18_04.jpg
Title	
Latitude	N 40° 00' 43"
Longitude	W 116° 02' 08"
Map Datum	WGS-84
Time Stamp	4:17:44 PM
Date Stamp	10/13/2015
Elevation	5709 ft
Photo Direction	343° NNW
Photo Direction	NW
II Route Context-Historic	Access to Spring
II Route Context-Contemporary	Access to Spring
III Evidence of Const/Improve	Inconclusive
III A1 Construction	Bladed?
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Medium
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	N/A

Stock Feeding :



Sulpher Spring RA: 09
Terminus



Sulphur Spring RA: 09	
Sulphur Spring RA	09
Route Reference	Terminus
Detail	Water development
File Name	GeoJot+ 2015-10-13 15_42_34.jpg
Title	
Latitude	N 40° 01' 53"
Longitude	W 116° 02' 43"
Map Datum	WGS-84
Time Stamp	4:42:15 PM
Date Stamp	10/13/2015
Elevation	6243 ft
Photo Direction	51° NE
Photo Direction	E
II Route Context-Historic	Unknown
II Route Context-Contemporary	Access to Spring
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	Vegetation Cutting
III Regular and Continuous Use	Yes
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	N/A

Sulpher Spring RA: 09b
Origin



Sulphur Spring RA: 09b	
Sulphur Spring RA	09b
Route Reference	Origin
Detail	Rehab/Naturalize
File Name	GeoJot+ 2015-10-13 15_23_32.jpg
Title	
Latitude	N 40° 01' 07"
Longitude	W 116° 02' 36"
Map Datum	WGS-84
Time Stamp	4:23:13 PM
Date Stamp	10/13/2015
Elevation	5945 ft
Photo Direction	270° W
Photo Direction	W
II Route Context-Historic	Unknown
II Route Context-Contemporary	No known purpose
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Did not follow route to the terminus

Sulphur Spring RA: 09a
Origin



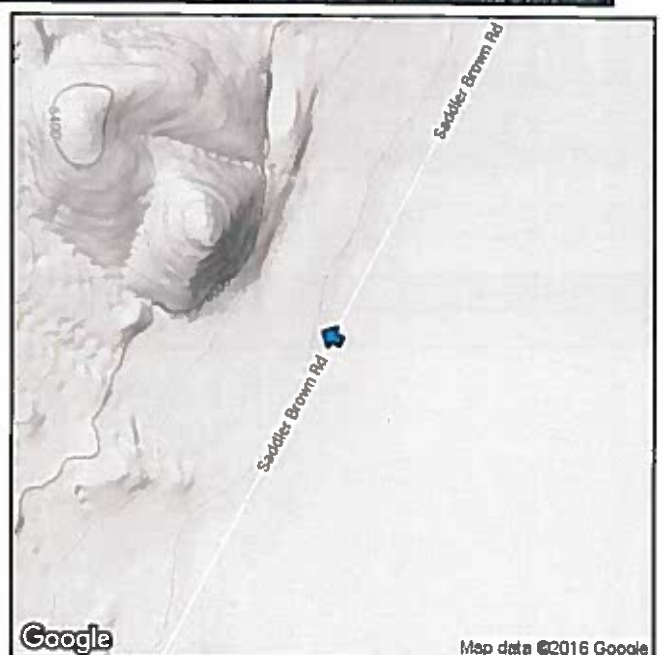
Sulpher Spring RA: 09a	
Sulpher Spring RA	09a
Route Reference	Origin
Detail	Rocky/Rough
File Name	GeoJot+ 2015-10-13 16_12_17.jpg
Title	
Latitude	N 40° 01' 38"
Longitude	W 116° 01' 30"
Map Datum	WGS-84
Time Stamp	5:11:57 PM
Date Stamp	10/13/2015
Elevation	5719 ft
Photo Direction	314° NW
Photo Direction	NW
II Route Context-Historic	former Access to spring
II Route Context-Contemporary	No longer accesses the spring
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route close this north access and use south access for spring

Sulphur Spring RA: 09a
Terminus



Sulphur Spring RA: 09a	
Sulphur Spring RA	09a
Route Reference	Terminus
Detail	Revegetated
File Name	Geolot+ 2015-10-13 15_44_51.jpg
Title	
Latitude	N 40° 01' 54"
Longitude	W 116° 02' 43"
Map Datum	WGS-84
Time Stamp	4:44:32 PM
Date Stamp	10/13/2015
Elevation	6201 ft
Photo Direction	4° N
Photo Direction	N
II Route Context-Historic	Former Access to spring
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route beyond this point

Sulphur Spring RA: 10
Origin



Sulpher Spring RA: 10	
Sulpher Spring RA	10
Route Reference	Origin
Detail	
File Name	GeoJot+ 2015-10-13 16_08_52.jpg
Title	
Latitude	N 40° 01' 10"
Longitude	W 116° 01' 49"
Map Datum	WGS-84
Time Stamp	5:08:32 PM
Date Stamp	10/13/2015
Elevation	5741 ft
Photo Direction	298° WNW
Photo Direction	W
II Route Context-Historic	Unknown
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Did not follow route to the terminus

Sulphur Spring RA: 11
Origin



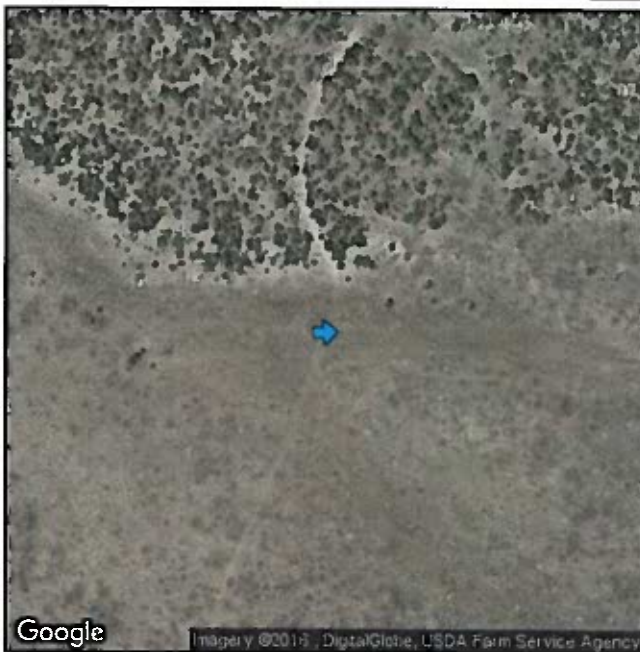
Sulphur Spring RA: 11	
Sulphur Spring RA	11
Route Reference	Origin
Detail	Revegetated
File Name	GeoJot+ 2015-10-14 08_11_48.jpg
Title	
Latitude	N 40° 04' 39"
Longitude	W 116° 04' 35"
Map Datum	WGS-84
Time Stamp	9:11:30 AM
Date Stamp	10/14/2015
Elevation	6640 ft
Photo Direction	124° SE
Photo Direction	E
II Route Context-Historic	Unknown
II Route Context-Contemporary	No Known Purpose
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route

Sulphur Spring RA: 12
Origin



Sulphur Spring RA: 12	
Sulphur Spring RA	12
Route Reference	Origin
Detail	Revegetated
File Name	GeoJot+ 2015-10-14 08_15_06.jpg
Title	
Latitude	N 40° 04' 30"
Longitude	W 116° 04' 47"
Map Datum	WGS-84
Time Stamp	9:14:47 AM
Date Stamp	10/14/2015
Elevation	6608 ft
Photo Direction	139° SE
Photo Direction	E
II Route Context-Historic	Unknown
II Route Context-Contemporary	No Known Purpose
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route

Sulphur Spring RA: 13
Origin



Sulphur Spring RA: 13	
Sulphur Spring RA	13
Route Reference	Origin
Detail	
File Name	GeoJot+ 2015-10-14 08_34_37.jpg
Title	
Latitude	N 40° 02' 21"
Longitude	W 116° 06' 18"
Map Datum	WGS-84
Time Stamp	9:34:18 AM
Date Stamp	10/14/2015
Elevation	6467 ft
Photo Direction	86° E
Photo Direction	E
II Route Context-Historic	Unknown
II Route Context-Contemporary	Post-fire; Harvesting burnt wood
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Low
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehab/Naturalize Route

Sulphur Spring RA: 13
Terminus



Sulphur Spring RA: 13	
Sulphur Spring RA	13
Route Reference	Terminus
Detail	Wood Cutting
File Name	GeoJot+ 2015-10-14 08_40_11.jpg
Title	
Latitude	N 40° 02' 27"
Longitude	W 116° 05' 49"
Map Datum	WGS-84
Time Stamp	9:39:53 AM
Date Stamp	10/14/2015
Elevation	6627 ft
Photo Direction	37° NE
Photo Direction	NE
II Route Context-Historic	None
II Route Context-Contemporary	Wood Cutting
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route route relatively new to salvage burnt. Trees.

Sulphur Spring RA: 14
Origin



Sulphur Spring RA: 14	
Sulphur Spring RA	14
Route Reference	Origin
Detail	
File Name	GeoJot+ 2015-10-14 08_53_05.jpg
Title	
Latitude	N 40° 01' 59"
Longitude	W 116° 06' 26"
Map Datum	WGS-84
Time Stamp	9:52:46 AM
Date Stamp	10/14/2015
Elevation	6473 ft
Photo Direction	73° ENE
Photo Direction	E
II Route Context-Historic	None
II Route Context-Contemporary	burnt tree salvage
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Low
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehab/Naturalize Route

Sulphur Spring RA: 14
Terminus atv only beyond this point



Sulphur Spring RA: 14	
Sulphur Spring RA	14
Route Reference	Terminus atv only beyond this point
Detail	
File Name	GeoJot+ 2015-10-14 08_59_58.jpg
Title	
Latitude	N 40° 02' 01"
Longitude	W 116° 05' 45"
Map Datum	WGS-84
Time Stamp	9:59:40 AM
Date Stamp	10/14/2015
Elevation	6686 ft
Photo Direction	121° ESE
Photo Direction	SE
II Route Context-Historic	None
II Route Context-Contemporary	Wood Cutting salvage, post fire
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	Rare
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route

Sulphur Spring RA: 15
Origin



Sulphur Spring RA: 15	
Sulphur Spring RA	15
Route Reference	Origin
Detail	
File Name	GeoJot+ 2015-10-14 09_14_39.jpg
Title	
Latitude	N 40° 01' 53"
Longitude	W 116° 06' 39"
Map Datum	WGS-84
Time Stamp	10:14:20 AM
Date Stamp	10/14/2015
Elevation	6463 ft
Photo Direction	80° E
Photo Direction	E
II Route Context-Historic	Unknown
II Route Context-Contemporary	Access to canyon
III Evidence of Const/Improve	None
III A1 Construction	Inconclusive
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Medium
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	N/A

Sulphur Spring RA: 17	
Sulphur Spring RA	17
Route Reference	Terminus
Detail	
File Name	GeoJot+ 2015-10-14 13_02_58.jpg
Title	
Latitude	N 39° 54' 32"
Longitude	W 116° 06' 53"
Map Datum	WGS-84
Time Stamp	2:02:39 PM
Date Stamp	10/14/2015
Elevation	6834 ft
Photo Direction	176° S
Photo Direction	S
II Route Context-Historic	None
II Route Context-Contemporary	Fenceline route
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Low
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route. Route ends abruptly, serves no purpose. It is only driven because it has been driven before.

Sulphur Spring RA: 17
Terminus



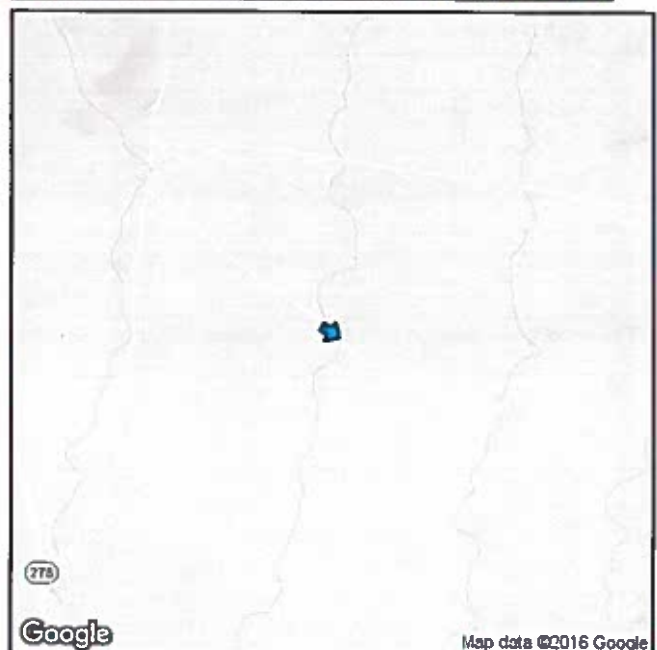
Sulphur Spring RA: 17	
Sulphur Spring RA	17
Route Reference	Origin
Detail	FenceLine route
File Name	GeoJot+ 2015-10-14 12_57_03.jpg
Title	
Latitude	N 39° 54' 16"
Longitude	W 116° 06' 53"
Map Datum	WGS-84
Time Stamp	1:56:44 PM
Date Stamp	10/14/2015
Elevation	6759 ft
Photo Direction	359° N
Photo Direction	N
II Route Context-Historic	Unknown
II Route Context-Contemporary	Fenceline route
III Evidence of Const/Improve	None
III A1 Construction	None
III A2 Improvements	None
III B Evidence of Maintenance	None
III Regular and Continuous Use	Yes
Use- Vehicular	Low
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Rehabilitation/Naturalize the Route. Route serves no purpose. Route ends abruptly with no area to turn around on a very steep slope.

Sulphur Spring RA: 17
Origin



Sulpher Spring RA: 16	
Sulpher Spring RA	16
Route Reference	Route Detail
Detail	
File Name	GeoJot+ 2015-10-14 10_43_49.jpg
Title	
Latitude	N 39° 58' 13"
Longitude	W 116° 09' 02"
Map Datum	WGS-84
Time Stamp	11:43:30 AM
Date Stamp	10/14/2015
Elevation	6076 ft
Photo Direction	121° ESE
Photo Direction	SE
I Route Context-Historical	Historic Mining Access
II Route Context-Contemporary	Unknown
III Evidence of Const/Improve	Yes
III A1 Construction	Bladed?
III A2 Improvements	None
III B Evidence of Maintenance	By Machine. Cut vegetation swath along side route unknown purpose
III Regular and Continuous Use	No
Use- Vehicular	Rare
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	N/A

Sulphur Spring RA: 16
Route Detail



Sulphur Spring RA: 15	
Sulphur Spring RA	15
Route Reference	Route Detail
Detail	Not suitable for vehicles beyond this point
File Name	Geojot+ 2015-10-14 09_26_43.jpg
Title	
Latitude	N 40° 01' 42"
Longitude	W 116° 05' 24"
Map Datum	WGS-84
Time Stamp	10:26:25 AM
Date Stamp	10/14/2015
Elevation	6821 ft
Photo Direction	142° SE
Photo Direction	SE
II Route Context-Historic	Unknown
II Route Context-Contemporary	Access to Canyon
III Evidence of Const/Improve	None
III A1 Construction	None at this point
III A2 Improvements	None
III B Evidence of Maintenance	Vegetation Cutting to this point
III Regular and Continuous Use	None beyond this point
Use- Vehicular	Rare beyond this point
Use- ATV/MC	
Use- Mountain Bike	
Use Stock/Wildlife	
Recommendations/Comments	Did not follow route to the terminus

Sulpher Spring RA: 15
Route Detail



EXHIBIT 3

Lands with Wilderness Characteristics Summary for the Battle Mountain District Resource Management Plan and Environmental Impact Statement

Resource Overview

The Bureau of Land Management (BLM) is required through the Federal Land Policy and Management Act of 1976 (FLPMA) to consider all available information in order to determine the appropriate balance of resource use and protection that best serves the multiple-use and sustained-yield mandate. Specific guidance is given in section 201 of FLPMA to the Secretary of the Interior, "The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resources and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern." While not specifically mentioned in section 201, wilderness characteristics are a value that is inventoried and managed by the BLM. Guidance for how to inventory lands for wilderness characteristics (LWC) and how to incorporate them into the planning process is provided in BLM Manuals 6310 and 6320 respectively.

BLM Manual 6310, *Conducting Wilderness Characteristics Inventory on Public Lands*, directs the BLM to consider whether to maintain or undertake a new wilderness characteristics inventory if, "the BLM is undertaking a land use planning process." In order for an area to contain lands with wilderness characteristics, it must meet the criteria as defined in the Wilderness Act of 1964. Those criteria are size, naturalness, and the area having outstanding opportunities for solitude or a primitive and unconfined type of recreation. While not required, the area may also contain supplemental values that enhance the wilderness experience.

Size:

For an area to qualify as possibly containing LWC it must meet the size requirement or one of the exceptions listed below:

- 1) Roadless BLM land that is 5,000 acres or greater in size.
- 2) Roadless BLM land that is less than 5,000 acres but one of the exceptions apply:
 - a) Contiguous with lands formally determined to have wilderness or potential wilderness values or with any Federal lands managed for the protection of wilderness characteristics. Those lands include:
 1. designated Wilderness
 2. BLM Wilderness Study Areas (WSA)
 3. U.S. Fish and Wildlife Service areas Proposed for Wilderness Designation
 4. U.S. Forest Service Wilderness Study Areas of areas or Recommended Wilderness
 5. National Park Service (NPS) areas Recommended or Proposed for Designation

This does not include NPS areas merely considered “Eligible for Wilderness Study” or Forest Service Roadless Areas unless they are also designated as “Recommended Wilderness” through a Forest Plan Revision.

- b) It is demonstrated that the area is of sufficient size as to make practicable its preservation and use in an unimpaired condition.
- c) Any roadless islands of the public lands.

Naturalness:

Areas must appear to be in a natural state and void of substantial human impacts. Human activity is allowed within the area if it is substantially unnoticeable. Examples of human-made features that may appear substantially unnoticeable after review may include but are not limited to: spring developments, stock ponds, fencing, historic properties, fire rings, pit toilets, and trails. Impacts outside the area are normally not considered during an inventory unless they are major.

Outstanding Opportunities for Solitude or a Primitive and Unconfined Type of Recreation: Opportunities for outstanding solitude and/or primitive types of recreation may be found in areas where the sights, sounds, and evidence of other visitors are non-existent or infrequent, and where the visitor feels isolated due to the size, topography, or vegetative screening of an area. The area may be conducive to activities of a non-motorized and non-mechanized nature.

Supplemental Values:

These include ecological, geological, or other features of scientific, educational, scenic, or historical value.

Methods of Analysis

During the Battle Mountain District (BMD) Resource Management Plan (RMP) process, the BLM completed an initial review of its lands within the District to determine which, if any, contain lands with wilderness characteristics. This review included only BLM lands and did not include existing WSAs. Areas evaluated within the BMD included areas greater than 5,000 acres, and areas less than 5,000 acres that are contiguous with WSAs, National Park Service Wilderness, and Forest Service Wilderness.

In November of 2012, the BMD began the process of identifying and inventorying potential lands with wilderness characteristics within its administrative boundary. The first step in this process was a GIS analysis to identify all roadless polygons greater than 5,000 acres, or less than 5,000 acres but met one of the identified criteria as stated above under size 2 a), b), and c). The areas were identified by running a query using all roads within the BMD as polygon boundaries. Areas remaining were 5,000 acres or greater or less than 5,000 acres but met one of the identified criteria. These areas were then further analyzed.

Further analysis consisted of comparing the remaining areas with imagery, and development layers such as rights-of-ways, mineral activity, renewable energy projects, and range

improvements to determine if they still met the minimum criteria for lands with wilderness characteristics. Areas were also evaluated as to whether or not they could be reduced in acreage and still meet the size criteria. Existing BLM inventories were also reviewed to determine if their conclusions were still valid including the BLM Nevada Initial Inventory Decisions of 1979 and the Nevada BLM Intensive Wilderness Inventory of 1980. For most inventory units, these conclusions were still valid and the inventory is considered maintained.

Under BLM Manual 6310, the public is authorized to submit areas for the BLM to consider for further review. Information submitted by the public must meet the minimum standard as outlined in BLM Manual 6310. This consists of: a map of sufficient detail to determine specific boundaries of the area in question; a detailed narrative that describes the wilderness characteristics of the area and documents how that information substantially differs from the information in the BLM inventory of the area's wilderness characteristics; and photographic documentation. On January 9, 2013 the BLM received a formal submission of areas by the Friends of Nevada Wilderness (FNW).

Proposed Findings

Based on the process outlined above, the BLM conducted a thorough evaluation of the BMD to initially identify areas that met the minimum standard to be considered for further review, which included the FNW submission. This evaluation resulted in 13 individual inventory units that warranted a field inventory to determine naturalness, outstanding opportunities for solitude or a primitive and unconfined type of recreation, and to identify any possible supplemental values. Using an interdisciplinary team of up to eight individuals representing various resource specialties, the BLM conducted a follow-up field inventory of each of these areas to determine if BLM found these areas to have wilderness characteristics. The BLM inventory found seven of the thirteen areas, a total of 215,200 acres to possess wilderness characteristics.

The following table summarizes the BLM's findings and the acreage of areas found to contain lands with wilderness characteristics.

Unit Name	Unit Identifier	Acreage Containing Lands with Wilderness Characteristics
Castle Rock #1 *	NV-060-130	22,200
Castle Rock #2 *	NV-060-120	19,000
Confusion Hills *	NV-060-212,213	0
Emigrant Peak *	NV-050-323	24,700
Goblin Knobs	NV-060-132	0
Grant Range	NV-060-166	0
Heart Hills *	NV-060-192	23,600
Lone Mountain *	NV-050-317	24,200

Unit Name	Unit Identifier	Acreage Containing Lands with Wilderness Characteristics
Magruder Mountain	NV-050-349	0
Monte Cristo North *	NV-050-306	54,400
Monte Cristo South *	NV-050-312	47,100
Stone Cabin Hills	NV-060-078	0
Volcanic Hills *	NV-050-324	0

*Represent citizen-proposed areas submitted by the FNW.

In order to determine the manner in which these lands should be managed to best meet the BLM's multiple-use mandate, these areas will be analyzed in a full range of alternatives during the RMP process. A final determination regarding the management of these areas will be issued through a separate Record of Decision (ROD) for the RMP. The individual unit inventory evaluations forms are available for review at the BMD website:

http://www.blm.gov/nv/st/en/fo/battle_mountain_field/blm_information/rmp.html

EXHIBIT 4

RUBEN J. KIHUEN

4TH DISTRICT, NEVADA

WASHINGTON OFFICE
313 CANNON HOUSE BUILDING
WASHINGTON, D.C. 20515
(202) 225-9894

NORTH LAS VEGAS OFFICE
2250 N LAS VEGAS BLVD., SUITE 500
NORTH LAS VEGAS, NV 89030
(702) 963-9360



COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING AND INSURANCE
SUBCOMMITTEE ON TERRORISM AND ILLICIT FINANCE

Congress of the United States
House of Representatives
Washington, DC 20515

April 24, 2017

Doug Furtado, District Manager
Battle Mountain District, Bureau of Land Management
50 Bastian Road
Battle Mountain, NV 89820

Dear Mr. Furtado,

The Battle Mountain Resource Management Plan (RMP) revision was initiated in 2010, but a draft plan has not yet been made available for public review. As the Representative for a portion of the Bureau of Land Management's Battle Mountain District in the United States Congress, I would like to arrange a meeting between representatives from our offices to discuss the status of the Battle Mountain RMP and your plans to move the revision process forward.

Public lands management is an important issue to those I serve. With the large amount of land in the 4th Congressional District held and managed in public trust by your agency, decisions about how to manage our lands can have major effects on our economic wellbeing and quality of life. Recognizing the BLM's multiple use mandate, I respect a balanced approach to managing the resources on BLM lands. Outdoor recreation, wilderness, renewable energy, mineral development, cultural resources, livestock grazing, and wildlife conservation are all important values that must have a place on our public lands.

Updating this Resource Management Plan is vital to ensuring that we are being good stewards of our public lands. This revision is now more than six years in the making, and it is important that progress is made to ensure a plan is in place that more fully reflects the current needs of BLM managed land.

I look forward to hearing from you and scheduling a time to meet on this important topic.

Sincerely,

A handwritten signature in blue ink, appearing to be 'RK' with a long horizontal stroke extending to the right.

RUBEN J. KIHUEN
Member of Congress

cc: Marci Todd, Acting State Director

EXHIBIT 5

BLM STATE OFFICE LEASE SALE FIGURES FOR THE PAST 3 YEARS (2015-2017)**Colorado**

SALE	OFFERED (PARCELS/ACRES)	SOLD (PARCELS/ACRES)	BONUS BIDS
Feb. 2015	39 / 28,079	21 / 15,281	\$351,901
May 2015	86 / 36,195	73 / 32,962	32,079,577
Nov. 2015	121 / 89,534	106 / 83,257	4,880,054
May 2016	6 / 6,960	6 / 6,960	5,211,268
Dec. 2016	31 / 20,135	28 / 19,095	1,558,338
Mar. 2017	17 / 16,447	17 / 16,447	63,546
Total	300 / 197,350	251 / 174,002 (88% of acres offered)	44,144,684 (\$224/acre offered)

Montana

SALE	OFFERED (PARCELS/ACRES)	SOLD (PARCELS/ACRES)	BONUS BIDS
Jan. 2015	7/1,742	7/1,742	\$4,252,600
May 2015	3/160	3/160	43,620
July 2015	7/1,595	6/1,075	36,805
May 2016	7/1,048	7/1,048	115,072
July 2016	3/720	3/720	26,320
Dec. 2016	88/18,956	33/7,179	53,058
Total	115/24,221	59/11,924 (49% of acres offered)	\$4,527,475 (\$187/acre offered)

Nevada

SALE	OFFERED (PARCELS/ACRES)	SOLD (PARCELS/ACRES)	BONUS BIDS
Mar. 2015	24 / 25,882	13 / 15,244	\$30,496
June 2015	124 / 256,875	0	0
Dec. 2015	3 / 3,641	0	0
Mar. 2016	39 / 50,416	0	0
June 2016	42 / 74,661	4	24,740
Mar. 2017	67 / 115,970	20 / 35,502	74,780
Total	299 / 527,445	37 / 50,746 (10% of acres offered)	\$130,016 (\$4.05/acre offered)

New Mexico

SALE	OFFERED (PARCELS/ACRES)	SOLD (PARCELS/ACRES)	BONUS BIDS
July 2015	69 / 24,782	69 / 24,782	\$70,399,074
Oct. 2015	14 / 5,030	14 / 5,030	28,534,840

Apr. 2016	11 / 2,306	11 / 2,306	46,298
Jan. 2017	4 / 843	4 / 843	2,934,194
Total	98 / 32,961	98 / 32,961 (100% of acres offered)	\$101,914,406 (\$3,092/acre offered)

Utah

SALE	OFFERED (PARCELS/ACRES)	SOLD (PARCELS/ACRES)	BONUS BIDS
Feb. 2015	17 / 12,834	17 / 12,834	\$342,277
May 2015	14 / 15,265	11 / 13,344	256,249
Feb. 2016	46 / 45,581	21 / 22,771	276,728
May 2016	4 / 6,743	2 / 3,952	10,146
Dec. 2016	24 / 10,510	19 / 9,050	192,072
Mar. 2017	4 / 4,174	4 / 4,174	110,263
Total	109 / 95,107	74 / 66,125 (69% of acres offered)	\$1,187,735 (\$12/acre offered)

Wyoming

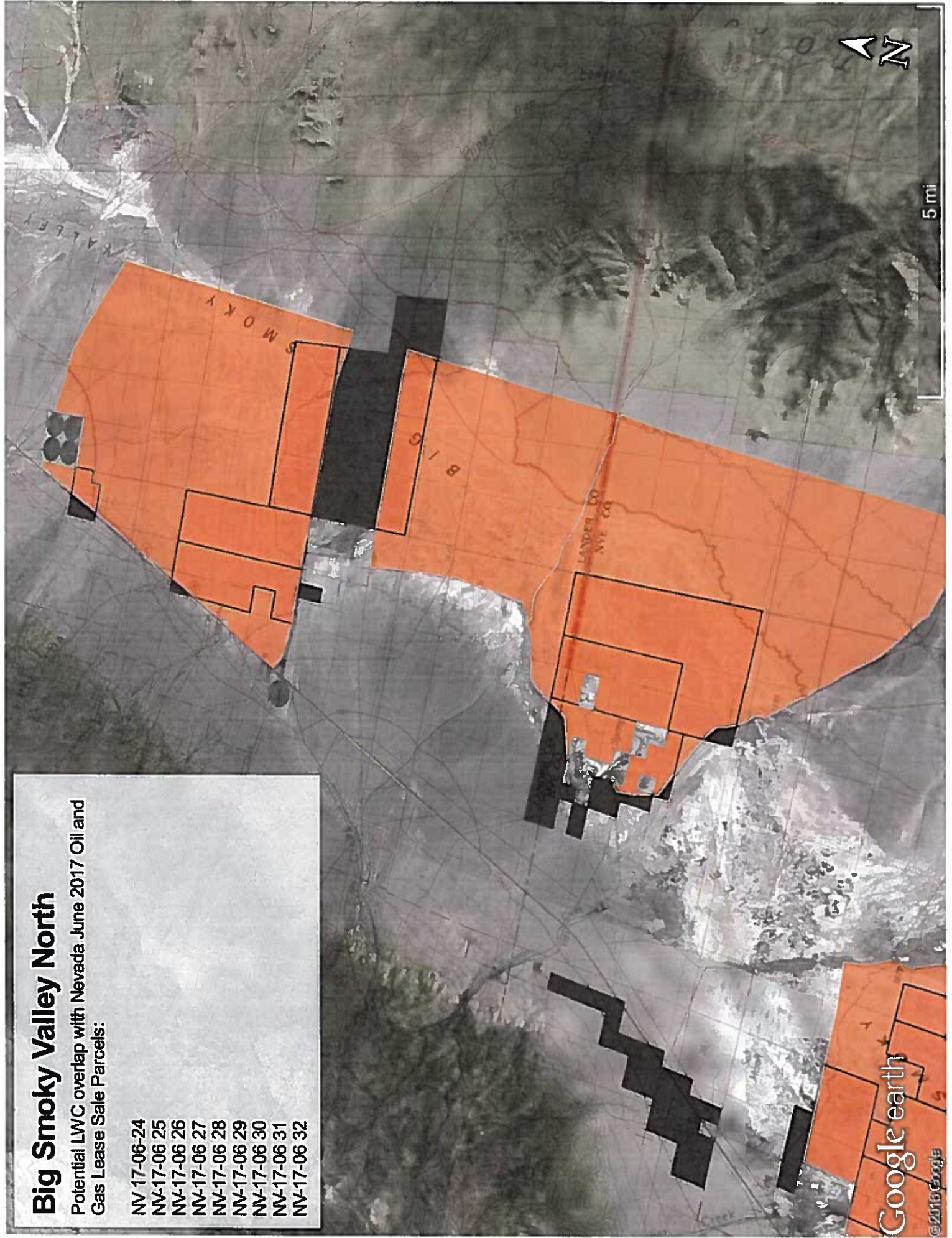
SALE	OFFERED (PARCELS/ACRES)	SOLD (PARCELS/ACRES)	BONUS BIDS
Feb. 2015	153 / 157,115	124 / 121,110	\$8,350,559
May 2015	31 / 30,382	31 / 30,382	637,978
August 2015	71 / 69,710	56 / 50,009	1,922,506
Nov. 2015	39 / 61,354	38 / 59,000	1,098,463
May 2016	110 / 105,984	95 / 89,609	5,611,637
August 2016	85 / 86,581	69 / 77,688	3,500,185
Nov. 2016	21 / 32,422	21 / 32,422	9,401,203
Feb. 2017	285 / 184,793	278 / 183,155	128,978,446
Total	795 / 728,341	712 / 643,375 (88% of acres offered)	\$159,500,977 (\$218/acre offered)

EXHIBIT 6

Big Smoky Valley North

Potential LWC overlap with Nevada June 2017 Oil and Gas Lease Sale Parcels:

- NV 17-06-24
- NV 17-06-25
- NV 17-06-26
- NV 17-06-27
- NV 17-06-28
- NV 17-06-29
- NV 17-06-30
- NV 17-06-31
- NV 17-06-32

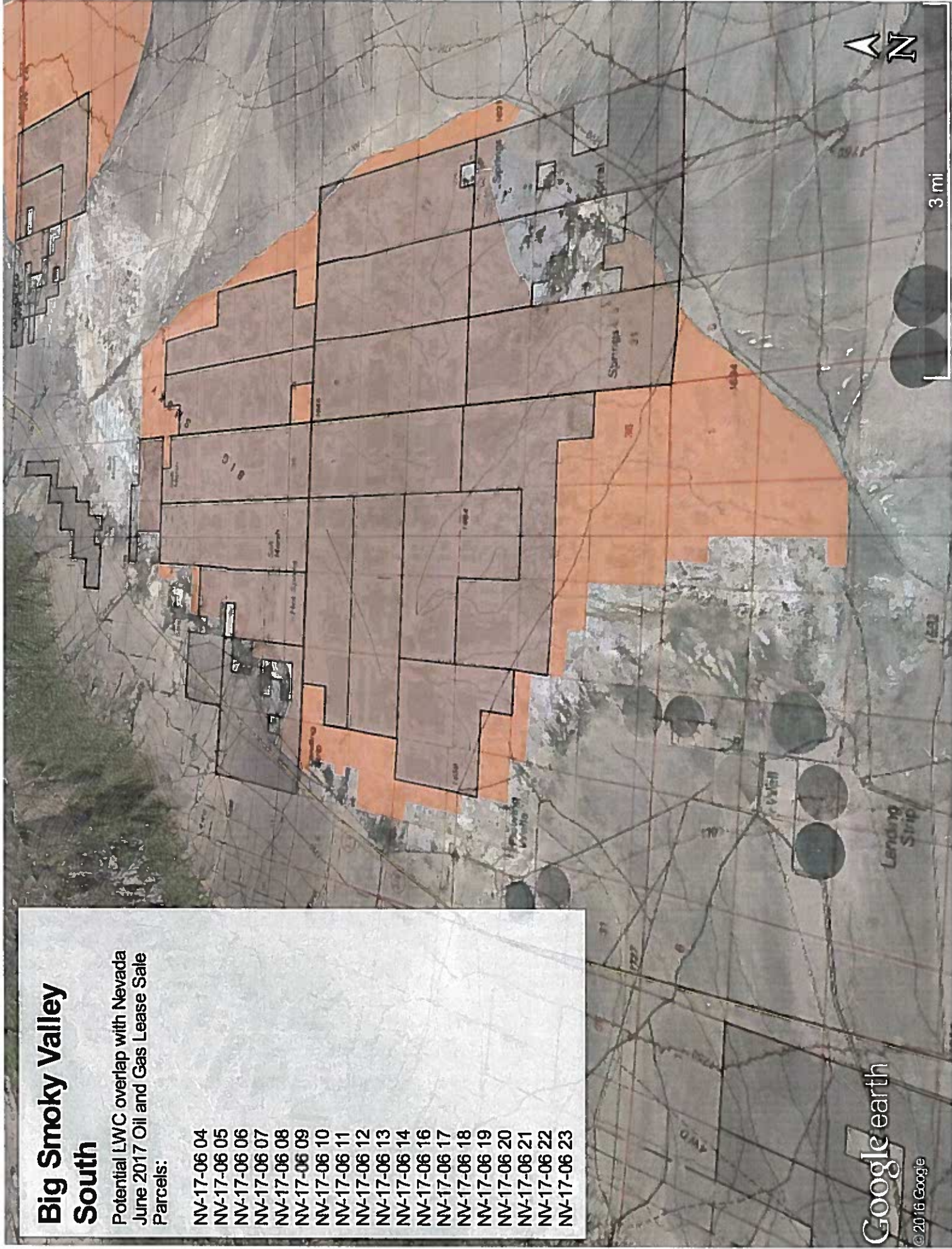


Big Smoky Valley South

Potential LWC overlap with Nevada
June 2017 Oil and Gas Lease Sale

Parcels:

NV-17-06 04
NV-17-06 05
NV-17-06 06
NV-17-06 07
NV-17-06 08
NV-17-06 09
NV-17-06 10
NV-17-06 11
NV-17-06 12
NV-17-06 13
NV-17-06 14
NV-17-06 16
NV-17-06 17
NV-17-06 18
NV-17-06 19
NV-17-06 20
NV-17-06 21
NV-17-06 22
NV-17-06 23



Google earth

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Fish Creek Range

Potential LWC overlap with Nevada June 2017 Oil and Gas Lease Sale Parcels:

NV-17-06 42
NV-17-06 43
NV-17-06 44
NV-17-06 45
NV-17-06 46
NV-17-06 47
NV-17-06 48
NV-17-06 49
NV-17-06 66



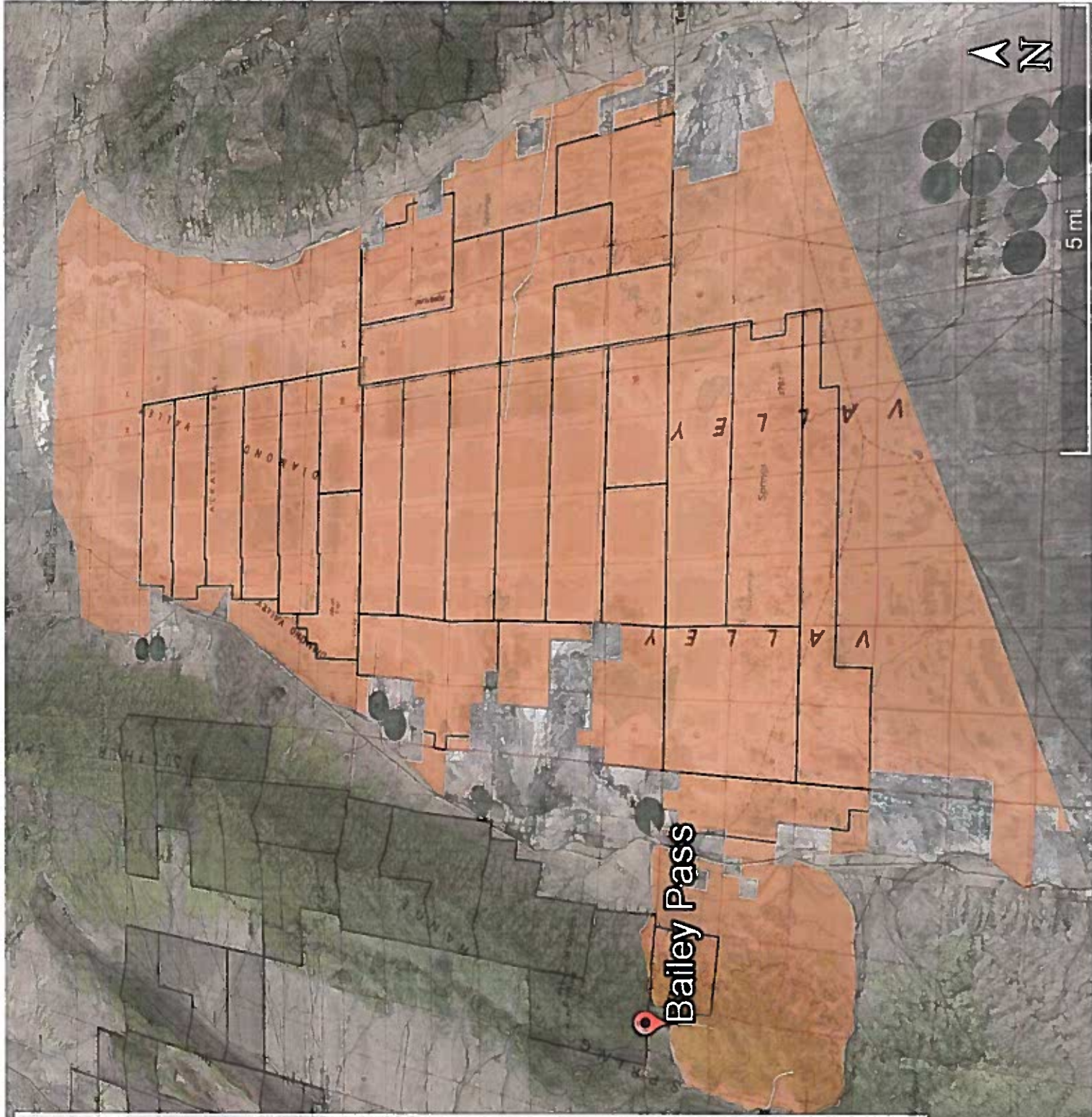
Google earth

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Diamond Valley and Bailey Pass Area

Potential LWC overlap with Nevada June 2017 Oil and Gas Lease Sale Parcels:

- NV 17-06-52
- NV 17-06-56
- NV 17-06-69
- NV 17-06-70
- NV 17-06-71
- NV 17-06-72
- NV 17-06-73
- NV 17-06-74
- NV 17-06-75
- NV 17-06-76
- NV 17-06-77
- NV 17-06-78
- NV 17-06-79
- NV 17-06-80
- NV 17-06-81
- NV 17-06-82
- NV 17-06-84
- NV 17-06-85
- NV 17-06-86
- NV 17-06-87
- NV 17-06-88
- NV 17-06-89
- NV 17-06-98
- NV 17-06-99
- NV 17-06-101
- NV 17-06-102
- NV 17-06-103



Diamond Mountains

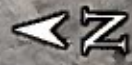
Potential LWC overlap with Nevada June 2017 Oil and Gas Lease

Sale Parcels:

- NV-17-06 92
- NV-17-06 93
- NV-17-06 94
- NV-17-06 95
- NV-17-06 96
- NV-17-06 104
- NV-17-06 105

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