



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Utah State Office

440 West 200 South, Suite 500

Salt Lake City, UT 84101

<http://www.blm.gov/ut/st/en.html>

IN REPLY REFER TO:  
3100 (UT922000)

July 30, 2015

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### **DECISION**

WildEarth Guardians	:	Protest to the Inclusion of Parcel
1536 Wynkoop, Suite 310	:	UTU91068 on the May 19, 2015
Denver, CO 80202	:	Competitive Oil and Gas Lease Sale

### **Protest Denied**

On February 13, 2015, the Bureau of Land Management (BLM) Utah State Office posted a Notice of Competitive Oil and Gas Lease Sale (NCLS) that identified parcels of land which BLM offered for oil and gas leasing at a competitive lease auction held on May 19, 2015 (May 2015 Lease Sale). The NCLS also provided formal notice of a 30-day public protest period for the May 2015 Lease Sale which ended on March 16, 2015, at 4:30 p.m.

On March 16, 2015, BLM Utah received a letter, whereby WildEarth Guardians (WEG) protested all of the parcels proposed for leasing at the May 2015 Lease Sale. This decision addresses WEG's protest of parcel UTU91068 (UT1114-132), which is located within the Vernal Field Office. The parcel (UTU91068 (UT1114-132)) had previously been offered for sale in November 2014 based on a Decision Record for the Vernal Field Office EA, DOI-BLM-UT-GO10-2014-093-EA, that was issued on January 26, 2015. The prior sale of that parcel was never completed, and therefore the BLM decided to reoffer it at the May 2015 Lease Sale.

The WEG protest alleges that the environmental assessment (EA), DOI-BLM-UT-GO10-2014-093-EA, which the BLM Vernal Field Office prepared in order to analyze the environmental impacts of leasing parcel UTU91068 (UT1114-132) for oil and gas, failed to analyze the reasonably foreseeable greenhouse gas (GHG) emissions that would result from leasing the parcel. WEG states that the BLM failed to analyze and assess the direct, indirect and cumulative impacts of GHG emissions that would result from issuing the proposed oil and gas lease parcel.

The protest also asserts that the BLM failed to analyze the costs of reasonably foreseeable carbon emissions using the social cost of carbon (SCC) protocol.

As a 2014 report from the National Academy of Sciences states “It is now more certain than ever, based on many lines of evidence, that humans are changing Earth’s climate.” Accordingly, the BLM believes that an assessment under NEPA must address, in an appropriate way, the GHG emissions from a proposed action and the effects of those emissions on the environment. In connection with its decision to reoffer this parcel, the BLM prepared a Determination of NEPA Adequacy (DNA) that reviewed the 2014 Vernal Field Office EA that analyzed the environmental impacts of leasing parcel UTU91068 (UT1114-132) to see if any additional analysis was required. In the DNA, the BLM presents a quantitative discussion of the GHG emissions from reasonably foreseeable development and their effects on climate change and socioeconomic factors.

Consistent with the revised Council on Environmental (CEQ) draft guidance issued on December 18, 2014, the BLM used estimated GHG emissions associated with the proposed action as a reasonable proxy for assessing, in its NEPA analysis, the potential climate change impacts of the May 2015 Lease Sale. The BLM has placed those GHG emissions in context by comparing them to relevant state emissions. In addition, the BLM has considered and disclosed the projected effects of climate change on the resources within the project area. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions.<sup>1</sup> As described in the DNA, the calculated potential carbon dioxide (CO<sub>2</sub>) equivalent emissions for the direct effects of the proposed action (leasing parcel UTU91068) are negligible and well below 25,000 metric tons per year. The CEQ draft guidance states that below that level, a GHG emissions quantitative analysis is not warranted unless it is easily accomplished.

With respect to estimating the SCC, the BLM finds that including monetary estimates of the SCC in its NEPA analysis for this proposed action, which is not a rulemaking action, would not be useful. A federal Interagency Working Group on the Social Cost of Carbon (IWG), convened by the Office of Management and Budget, developed an SCC protocol to develop estimates of the SCC, which reflects the monetary cost incurred by the emission of one additional metric ton of CO<sub>2</sub>. The SCC was developed specifically for regulatory impact analyses, and provides potential methodology for cost-benefit analysis. However, NEPA does not require a cost-benefit analysis as part of NEPA review, and there is no legal mandate or existing guidance requiring the inclusion of the SCC in the NEPA context. We did not perform a cost-benefit analysis as part of this NEPA review for the lease parcel.

For the reasons set forth above, I have determined that offering the protested parcel at the May 2015 Lease Sale is in compliance with BLM policies, as well as all other applicable laws,

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<sup>1</sup> See *WildEarth Guardians v. Jewell*, 738 F.3d 298, 309 (D.C. Cir. 2013). See also *WildEarth Guardians v. BLM*, 8 F.Supp.3d 17 (D.D.C. 2014).

regulations and policies. Accordingly, the protest submitted by WEG is denied with respect to lease parcel UTU91068 (UT1114-132).

This decision may be appealed to the Interior Board of Land Appeals (IBLA) in accordance with the regulations contained in Title 43 of the Code of Federal Regulations (CFR) Part 4 and as described on the enclosed BLM Form 1842-1. In order for an appeal of this decision to be considered, a written notice of appeal must be filed with this office (as described on the enclosed Form 1842-1) within 30-days from receipt of this decision.

If you wish to file a petition for a stay pursuant to 43 CFR § 4.21 as to the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, a petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification in accordance with the standards listed in 43 CFR § 4.21(b), which include:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

Copies of the notice of appeal, petition for a stay, and a statement of reasons must also be submitted to each party named in this decision and to the Office of the Regional Solicitor, Intermountain Region, U.S. Department of the Interior at Federal Building Room 6201, 125 South State Street, Salt Lake City, Utah 84138, at the same time that the original documents are filed in this office.

Please direct any questions regarding this decision to Becky Hammond, Fluid Minerals Branch Supervisor, at 801-539-4039.

*/s/ Jenna Whitlock*

Jenna Whitlock  
Acting State Director

Enclosure  
Form 1842-1

cc: Vernal Field Manager