



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Wyoming State Office

P.O. Box 1828

Cheyenne, WY 82003-1828

www.blm.gov/wy

In Reply Refer To:
3100 (921 Gamper)
November 2014 Protests

NOV 03 2014

CERTIFIED – RETURN RECEIPT REQUESTED

Christopher Deming
The Trust for Public Land
PO Box 12200
Jackson, WY 83002

Bruce Pendery
Wyoming Outdoor Council
262 Lincoln Street
Lander, WY 82520-2848

Joy Bannon
Wyoming Wildlife Federation
309 Main Street, Suite A
Lander, WY 82520

DECISION

:
:
:

NOVEMBER 2014 OIL AND GAS LEASE SALE PROTEST OF PARCEL 1411-087

**WYOMING OUTDOOR COUNCIL PROTEST GRANTED
WYOMING WILDLIFE FEDERATION PROTEST DENIED
TRUST FOR PUBLIC LAND PROTEST DENIED**

On September 5, 2014, the Bureau of Land Management (BLM), Wyoming State Office (WSO), received a protest to the offering of parcel 1411-087 at the November 4, 2014, Competitive Lease Sale from three parties: the Wyoming Outdoor Council (WOC), the Wyoming Wildlife Federation, and the Trust for Public Land.

The WSO has previously decided that if a party did not submit written comments to the BLM during the 30-day leasing Environmental Assessment (EA) comment period, the BLM would deny any protest subsequently filed by that party. The record shows that WOC submitted written comments to the BLM High Desert District (HDD) office during the November 4, 2014, competitive lease sale EA comment period. However, neither the Trust for Public Land or the Wyoming Wildlife Federation participated in the 30-day public comment period. Therefore, the Trust for Public Land and the Wyoming Wildlife Federation protests are hereby denied.

The BLM received 139 nominations for the November 4, 2014, competitive oil and gas lease sale between September 23, 2013, and December 20, 2013.

During the BLM's preliminary review of these parcels, the WSO independently screened each of the parcels, checked conformance with the Resource Management Plan (RMP) for each planning area,¹ coordinated with the State of Wyoming Governor's Office and the Wyoming Game and Fish Department (WGFD), evaluated recent changes to national and state BLM policies, and considered on-going efforts by the BLM in Wyoming (WY) to revise or amend RMPs for planning areas subject to this sale, including the BLM's on-going planning efforts related to the management of greater sage-grouse habitat on public lands.

After preliminary review at the WSO, the parcels were provided to the HDD office and associated field offices (FO) to begin the interdisciplinary review process, including field visits to nominated parcels (where appropriate), confirm conformance with the RMP for each planning area, and prepare an EA documenting National Environmental Policy Act (NEPA) compliance. The preliminary parcel list was also provided to the WGFD for review, and split estate land owners were notified per Washington Office Instruction Memorandum (IM) 2010-117, Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews.

The EA (WY-040-EA14-075), along with the draft and unsigned Finding of No Significant Impact (FONSI)² were released on May 2, 2014, for a 30-day public review period, as required by WO IM 2010-117. The EA tiered to the existing field office/resource area RMPs and their respective Environmental Impact Statements (EISs), in accordance with 40 CFR 1502.20:³

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

¹ See BLM's Land Use Planning Handbook at page 42: "After the RMP is approved, any authorizations and management actions approved... must be specifically provided for in the RMP or be consistent with the terms, conditions, and decisions in the approved RMP." See also 43 CFR 1610.5-3.

² See the BLM's NEPA Handbook H-1790-1 at page 76. Though the BLM has elected to release a draft, unsigned FONSI for public review in this instance, the BLM is not asserting that any of the criteria in 40 CFR 1501.4(e)(2) are met.

³ See also the BLM's NEPA Handbook H-1790-1 at pages 27-28.

incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action.

Compliance with all pertinent laws and regulations were considered in the drafting of the current RMP EIS' and associated Record of Decisions. For leasing and development of fluid minerals,

these include, but are not limited to: NEPA, the Federal Land Policy and Management Act, the Endangered Species Act, the National Historic Preservation Act, the 2005 Energy Policy Act, the Mineral Leasing Act, and the regulations at 43 CFR 3100 and 3160.

NEPA guides the environmental analysis process. Generally, the scope of an analysis relates to the purpose and need for the proposed action. The BLM WY November 2014 Sale EA described its purpose and need as (HDD EA v.2 at page 3):

The BLM's purpose for offering parcels and subsequent issuance of leases in the May 2013 lease sale is to provide for exploration and development of additional oil and gas resources to help meet the nation's need for energy sources, while protecting other resource values in accordance with guiding laws, regulations, and Land Use Planning decisions. Wyoming is a major source of natural gas for heating and electrical energy production in the United States. The offering for sale and subsequent issuance of oil and gas leases is needed to meet the requirements of MLA, FLPMA, and the minerals management objectives in the Kemmerer, Pinedale, Rawlins, and Green River Resource Management Plans (RMP). Oil and gas leasing provides the opportunity to expand existing areas of production and to locate previously undiscovered oil and gas resources to help meet the public's energy demands.

Decisions to be made based on this analysis include which parcels would be offered for lease, which parcels would be deferred, which parcels are not available for leasing, and what stipulations will be placed on the parcels that would be offered for lease at the May 2013 lease sale.

The EA considered two alternatives in detail:

- The No Action alternative (Alternative A) which considered not offering any of the nominated parcels available for lease.
- The Proposed Action alternative (Alternative B) which included offering certain parcels (whole or in part) and deferring others (whole or in part).

In accordance with WY IM No. 2012-019, Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate, 19 parcels (whole or partial containing 35,367.94 acres) were deferred from the November 2014 sale and were not analyzed in detail. This IM provides guidance to BLM WY FOs regarding management consideration of Greater Sage-Grouse habitats for proposed activities until resource management planning updates are completed.

The HDD EA also considered two additional alternatives but eliminated them from detailed analysis: (1) offer all nominated parcels with a No Surface Occupancy Stipulation (NSO); and (2) defer all remaining parcels within sage grouse core area(s). These alternatives were dismissed from further review because they: (1) would not be in conformance with the applicable RMPs, (2) impacts are within the range of alternatives analyzed and, (3) would not meet the purpose and need as identified in the HDD November 2014 lease sale EA.

ISSUES

The WOC protest raised objections to the offering of lands contained within the Sommers-Grindstone conservation easement (CE), established in 2010. This conservation easement contains 19,000 acres and is an amalgamation of three individual ranches located in the Upper Green River Basin of Wyoming, portions of which overlie minerals administered by the BLM. Parcel 087 is a split estate parcel and is located within the Dukes Place. In 2010, the Jonah Interagency Office, the Pinedale Anticline Project Office (JIO/PAPO), and the Wyoming Landscape Conservation Initiative (WLCI) all reviewed and approved the disbursement of over \$11 million dollars to support the private-action CE purchase. The JIO/PAPO prepared a CE habitat assessment to support the decision of the controlling board of directors. The land in question is available for oil and gas leasing subject to the standard lease terms and timing limitation stipulations.⁴

According to documents located at the PAPO website, the CE project components included acquisition of a CE containing 7,600 acres, acquisition and development of public fishing access along the Green River, conveyance of mineral rights to the WGFD and potentially others, development of a conservation agreement to protect existing sagebrush communities and provide the modification of fences for a total project area of 19,000 acres.

Documents located on the WLCI website indicate that “the project includes a conservation easement on the surface estate, a public fishing easement/access, and allowed for the conveyance of private mineral rights with a NSO stipulation.”

WOC also brought forward concerns regarding how the recently adopted Regional Mitigation Strategy may influence decisions regarding offsite mitigation projects, such as the Sommers-Grindstone CE.

The WOC protest has raised new information that BLM did not consider during its NEPA review process. This new information deserves further review by the BLM in light of the Regional Mitigation Strategy issued under WO IM No. 2013-142: Interim Policy, Draft-Regional Mitigation Manual Section - 1794.

⁴ Approximately 1240 acres were deferred from offering of this parcel due to review performed under Greater Sage Grouse policy contained in Wyoming Instruction Memorandum 2012-019; this information is disclosed in the lease sale EA. As a result only 199,250 acres of parcel 087 was considered for offering at the November 4, 2014 lease sale as analyzed in the lease sale EA.

DECISION: The BLM will defer offering parcel 1411-087 at the November 2014 competitive oil and gas lease sale until BLM can determine whether offering parcels located within the Sommers-Grindstone CE is appropriate.

Appeal Information

This Decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1 (copy attached).

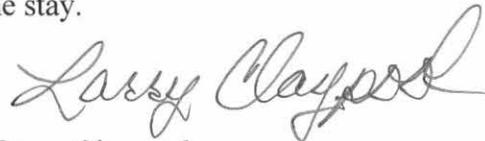
If an appeal is taken, your notice of appeal must be filed in this office within 30 days from your receipt of this Decision. The protestor has the burden of showing that the Decision appealed from is in error.

If you wish to file a petition for a stay of the effectiveness of this Decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed on the attached document. Copies of the notice of appeal and petition for a stay must be submitted to the Interior Board of Land Appeals and the appropriate Office of the Solicitor (see 43 CFR §4.413) at the same time the original documents are filed with this office. Copy of the notice of appeal and petition for a stay must also be submitted to each adversely affected party named in this decision at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

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



Larry Claypool
Deputy State Director,
Minerals and Lands

1 Attachments:

1 - Appeal Form (1842-1)

cc:
High Desert District
HDD Field Offices
DSD (920)
DSD (930)
J. Weaver (923)
S. Moberley (923)
M.Gamper (921) e-mail of final and a letterhead copy
