



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Nevada State Office
1340 Financial Boulevard
Reno, Nevada 89502-7147
<http://www.blm.gov/nevada>

In Reply Refer To:
3100 (NV920)

DECISION

Western Energy Alliance : Protest of Parcels in the
1660 Lincoln St., Suite 2175 : March 18, 2025
Denver, CO 80264 : Competitive Oil and Gas Internet Lease Sale

Protest Dismissed Parcels Offered For Sale

On February 14, 2025, the Bureau of Land Management (BLM), Nevada State Office (NVSO), timely received a protest¹ from Western Energy Alliance (WEA), which protested the Battle Mountain District Office's (BMDO) Environmental Assessment (EA), DOI-BLM-NV-B000-2024-0003-EA and Finding of No Significant Impact (FONSI) for the March 18, 2025 Competitive Oil and Gas Internet Lease Sale (the Sale). No specific parcel serial numbers were identified in the WEA protest.

BACKGROUND

The BLM posted the Sale Notice on January 17, 2025, offering 12 parcels containing 23,202.36 acres for the March 18, 2025 Lease Sale. The 12 originally nominated parcels included land in federal mineral estate located in the BLM Nevada's Battle Mountain District. After the NVSO completed preliminary adjudication² of the nominated parcels, the NVSO screened each parcel to determine compliance with national and state BLM policies, including BLM's efforts related to the management of Greater Sage-Grouse on public lands.

On July 12, 2024, the NVSO sent a preliminary parcel list to the BMDO for review. This interdisciplinary parcel review included internal scoping by a team of BLM specialists; review of geographic information system (GIS) data; satellite imagery and other previously collected wildlife, habitat, and other resource data; field visits to nominated parcels (where appropriate);

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

² Preliminary adjudication is the first stage of analysis of nominated lands conducted by the State Office to prepare preliminary sale parcels for District/Field Office review. During preliminary adjudication, the State Office confirms availability of nominated lands for leasing pursuant to 30 U.S.C. § 181 *et seq.*, 43 CFR 3100 *et seq.*, and BLM policies. Once the State Office completes preliminary adjudication, it consolidates the nominated land available for leasing into a preliminary parcel list to send to the District/Field Office for National Environmental Policy Act (NEPA) analysis and leasing recommendations.

review for conformance with the Land Use Plans (LUP); and preparation of an EA documenting National Environmental Policy Act (NEPA) compliance.³

The EA (DOI-BLM-NV-B000-2024-0003-EA) tiered to the existing Land Use Plans,⁴ in accordance with the BLM's NEPA Handbook, H-1790-1. The EA analysis adheres to the requirements of the National Environmental Policy Act, 42 U.S.C. §§ 4321–4370m-11 and the Department of the Interior's NEPA regulations at 43 C.F.R. §§ 46.10-46.450.

The federal action, an oil and gas lease sale, is not a planning level action making resource allocation decisions (which are analyzed in a Resource Management Plan NEPA document), nor a specific implementation action (e.g., a permit to drill, analyzed in a site specific NEPA document).⁵ The federal action is to conduct an oil and gas lease sale and is supported by its own or existing NEPA documents.

The purpose for the federal action is to provide opportunities for private individuals or oil and gas companies with new areas to explore and potentially develop. Leasing is authorized under the Mineral Leasing Act of 1920 (MLA), as amended and modified by subsequent legislation and regulations found at 43 CFR part 3100. Oil and gas leasing is recognized as an acceptable use of public lands under the Federal Land Policy and Management Act (FLPMA). BLM authority for leasing public mineral estate for the development of energy resources, including oil and gas, is described in 43 CFR 3160.0-3.

The need for the proposed action is to respond to the nomination of parcels by Expressions of Interest (EOIs) for leasing, consistent with the BLM's responsibility under the Mineral Leasing Act, as amended, to promote the development of oil and gas on the public domain. The public, BLM, or other agencies may nominate parcels for leasing. The BLM is required by law to consider leasing of areas that have been nominated for lease if leasing is in conformance with the applicable BLM land use plan, FLPMA, and other applicable laws, regulations, and policies. Offering parcels for competitive oil and gas leasing provides for the orderly development of fluid mineral resources under BLM's jurisdiction in a manner consistent with multiple use management and consideration of the natural and cultural resources that may be present. This requires that adequate provisions are included with the leases to protect public health and safety and assure full compliance with the spirit and objectives of NEPA and other federal environmental laws and regulations.

The EA considered two (2) alternatives:

- Alternative A- The "Proposed Action" alternative, which included offering all nominated parcels that were sent for review, with stipulations from the existing Resource Management Plans (RMPs).

³ See BLM, H-1601-1, *Land Use Planning Handbook*, (Jan. 2025) (p. 133): "plan implementation requires the BLM to review individual project proposals for conformance with the approved RMP. Conformance means that a resource management action shall be specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved RMP or amendment." See also (43 CFR 1601.0-5(B)).

⁴ The EA is in conformance with the Tonopah RMP, approved in 1997, the Shoshone-Eureka RMP, approved in 1986, and the 2022 Plan Maintenance to the 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment, the associated Records of Decision, and all subsequent applicable amendments.

⁵ See BLM, H-1624-1, *Planning for Fluid Minerals Handbook*, (Feb. 2018)

- Alternative B- The “No Action” alternative, which considered rejecting all parcels nominated for the lease sale. This alternative is included as a baseline for assessing and comparing potential impacts.

The EA analyzed the proposed action and the no action alternative. These alternatives provided a spectrum of effects for analysis and comparison, ranging from no parcels offered to offering all nominated parcels. Additional alternatives were proposed in internal scoping and public comments; however, they were not carried forward for further analysis as they would not provide a basis for evaluation of effects not encompassed by the analyzed range of alternatives. The additional proposed alternatives did not meet the Purpose and Need for the federal action and were not in compliance with BLM policy regarding the land use planning process and the oil and gas leasing process. These alternatives were discussed in the Summary of Comments and Responses (*see* Appendix L).

On January 17, 2025, the NVSO published a *Notice of Competitive Oil and Gas Internet Lease Sale for March 18, 2025*⁶ (Notice), resulting in a total of 12 parcels offered for lease. This protest challenges the Sale, BMDO EA (DOI-BLM-NV-B000-2024-0003-EA) and associated FONSI.⁷

ISSUES

The WEA protest generally alleges that the BLM failed to comply with the NEPA 42 U.S.C. § 4321 *et seq.*, the FLPMA 43 U.S.C. § 1701 *et seq.*, the Administrative Procedure Act 5 U.S.C. § 551-559 *et seq.*, and the Mineral Leasing Act 30 U.S.C. § 181 *et seq.* The following addresses WEA’s protest related to the Sale.

The BLM has reviewed WEA’s protest in its entirety; the substantive protests are numbered and provided in bold with BLM responses following.

A. BLM failed to explain its Lease Preference Process and decision-making in violation of NEPA, FLPMA, MLA, and APA

BLM Response:

The BLM holds oil and gas lease sales consistent with the MLA and FLPMA, when eligible lands are available for leasing. Ultimately, the BLM has the discretion to offer or defer any parcel during any sale. The MLA allows discretion in that “[a]ll lands subject to disposition . . . which are known or believed to contain oil or gas deposits may be leased by the Secretary.” 30 U.S.C. § 226(a). BLM Nevada has no deferred EOIs. The 12 parcels proposed to be offered at the March 2025 Oil & Gas Lease Sale are all of the currently nominated parcels in the State of Nevada.

The BLM evaluates nominated parcels for leasing in accordance with 43 CFR § 3120.32 *Expression of interest leasing preference* which outlines five criteria to determine each parcel’s leasing preference. Additionally, please refer to Appendix K of the BMDO EA for the Leasing Preference Table, which identifies each of the five criteria in 43 CFR § 3120.32

⁶ The Notice contains a memorandum of general sale information, the final parcel list, and the final stipulations.

⁷ The March 2025 Competitive Oil and Gas Lease Sale Protests and Protest Decisions are posted on the BLM website, located at: <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/nevada>

and indicates how they apply to each parcel. Oil and gas potential as well as proximity to existing development was determined using the Nevada Division of Minerals Open Data Site.

For these reasons, the above WEA protest is dismissed.

B. The draft FONSI incorrectly enlarges BLM’s discretionary authority for offering parcels and misapplies recent legal precedent

BLM Response:

A statement of reason is considered non-substantive if it does not allege an error or material omission in the analysis of the Proposed Action, and so, to the extent that this argument relies on interpretation of a legal authority that is the best evidence of its contents rather than an alleged flaw in the analysis, the BLM considers it non-substantive.

On page five of the FONSI, referring to the *Wilderness Society* case, the BLM stated that it “must consider the effects of its onshore oil and gas lease sales on GHG emissions and climate change, and the Mineral Leasing Act provides the Secretary of the Interior with discretion to tailor those sales— including which parcels are offered for sale and the terms of leases—in light of climate effects.”

Following this requisite consideration of climate effects, “BLM has therefore not exercised its discretion to tailor this lease sale to account for global climate change.” The BLM maintains its interpretation of *Wilderness Society*. See, e.g., *Wilderness Society*, 2024 WL 1241906, at *1 (“the Secretary has discretion to decide where, when, and under what terms and conditions oil and gas development should occur”); *id.* at *24 (“If, in fact, the [BLM] did not consider GHG emissions when rendering its decision on the challenged lease sale, it would appear to have overlooked what is widely regarded as the most pressing environmental threat facing the world today.”).

For these reasons, the above WEA protest is dismissed.

C. BLM failed to conduct a legally sufficient socioeconomic analysis and to analyze the benefits of leasing while arbitrarily focusing primarily on renewable energy benefits
1. Legal Framework

BLM Response:

The protesting parties cited legal authorities do not appear to support its position. *Interstate Natural Gas Association* considered a challenge to a pipeline rulemaking under statutory requirements of 49 U.S.C. § 60102(b)(5), which are specific to the transportation sector.

The BLM’s analysis is consistent with the requirements of NEPA. See 42 U.S.C. § 4336 (“An agency shall prepare an environmental assessment with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, ... Such environmental assessment shall be a concise public document prepared by a Federal agency to set forth the basis of such

agency's finding of no significant impact or determination that an environmental impact statement is necessary."); see also 43 CFR § 46.300. The BLM analyzes the impacts associated with the alternatives using the best available information, which is typically not monetized estimates of benefits or costs.

The BLM analyzed both the costs and benefits of the leasing decision in several contexts in the EA, with economic benefits primarily discussed in EA Section 3.5.17, Socioeconomic Values, in which the BLM discussed potential socioeconomic benefits including revenues generated for Federal, state, and local governments as well as specific impacts. The BLM stated that "subsequent oil and gas exploration, development and production could affect the local economy in terms of additional jobs, income and tax revenue" and that "Exploration companies developing oil and gas leases often bring workers to the site, where they live in company or personally owned mobile housing units until the work is complete. The local communities of Eureka, Tonopah, or Ely could see some benefit during construction. These could include consumables such as fuel or food; additionally, waste storage and pickup services may be retained at these locations."

Positive indirect impacts to socioeconomics were also discussed in EA Section 3.5.17, which states "bonus bids (the amount paid at time of auction), annual rent fees (for 10 years regardless of activity on a leased parcel), and royalties (if and when production occurs) may provide substantial income to county governments for schools and other expenditures." Additional details on the economic contribution of federal fluid minerals are discussed in the Tonopah and Shoshone-Eureka RMPs and associated EISs, which are referenced in the EA. It is stated in EA Section 3.5.17, Cumulative Effects, that the socioeconomic effects of the proposed action would be minor and beneficial, and the same would be expected for cumulative effects.

WEA, therefore, has made no defensible allegation that the BLM erred in its analysis or failed to meet applicable legal standards.

Regarding EOIs that were not carried forward in this Lease Sale, BLM Nevada has no deferred EOIs. The 12 parcels proposed to be offered at the BMDO March 2025 oil and gas lease sale are all of the currently nominated parcels in the State of Nevada. Analyzing aggregate deferred or unoffered eligible acreage in terms of lost federal and state revenues in other BLM states is outside the purview of the proposed action.

Additionally, please refer to the cumulative effects section of EA Section 3.5.2, which discusses the GHG reductions from natural gas use in the EIA 2023 Annual Energy Outlook: "As a result, U.S. production of natural gas and petroleum and liquids will rise amid growing demand for exports and industrial uses. U.S. natural gas production increases by 15% from 2022 to 2050. However, renewable energy will be the fastest-growing U.S. energy source through 2050. As electricity generation shifts to using more renewable sources, domestic natural gas consumption for electricity generation is expected to decrease by 2050 relative to 2022. As a result, energy-related CO₂ emissions are expected to fall 25% to 38% below 2005 level, depending on economic growth factors."

For these reasons, the above WEA protest is dismissed.

2. BLM failed to disclose and analyze the benefits of leasing and development, violating NEPA, MLA, and FLPMA

BLM Response:

Please refer to the above BLM response to WEA protest C-1. For these reasons, the above WEA protest is dismissed.

D. The draft EA fails to analyze the cumulative effects of BLM’s minimal lease acreage offerings

BLM Response:

Several topics WEA advances in this statement of reason, including BLM’s cumulative lease parcel deferrals, its nationwide compliance with the Inflation Reduction Act (IRA), and the relative pros and cons of natural gas verses renewable energy sources, are outside the scope of the present decision.

With regard to the IRA, while the acres proposed for lease in this sale would count toward “the sum total of acres offered for lease in onshore lease sales”, a calculation that would happen at a national level, this EA does not concern the issuance of a right-of-way for wind or solar energy development.

Regarding parcel deferrals, the BLM generally has discretion to offer or defer any parcel during any sale. 30 U.S.C. 226(a) (“All lands subject to disposition . . . which are known or believed to contain oil or gas deposits may be leased by the Secretary.”) (emphasis added). For parcels deferred for inadequate or incomplete information (i.e., necessary tribal consultation), the BLM will consider the parcels at the next available sale if and when information is complete and supports a decision to lease. However, lands may not be offered for sale if the information reveals impacts that warrant a subsequent deferral (lease preference factors, significant cultural concerns, etc.).

BLM Nevada currently has no deferred EOIs. The 12 parcels proposed to be offered at the March 2025 Sale are all of the currently nominated parcels in the State of Nevada.

WEA has alleged no specific error or material omission in the BLM’s decision to conduct this lease sale. For these reasons, the above WEA protest is dismissed.

1. Failure to disclose and analyze impacts of EOI deferrals.

BLM Response:

Please refer to the above BLM response to WEA protest D. For these reasons, the above WEA protest is dismissed.

2. Arbitrary and capricious treatment of oil and natural gas compared to renewable energy in violation of APA and NEPA

BLM Response:

Please refer to the above BLM response to WEA protest D. For these reasons, the above WEA protest is dismissed.

DECISION

To the extent that WEA has raised any allegations not specifically discussed herein, they have been considered in the context of the above response and are found to be without merit. For this reason, and for those previously discussed, WEA's protest of the Sale, Battle Mountain District EA, and FONSI is dismissed, and 12 parcels will be offered for sale on March 18, 2025.

APPEAL INFORMATION

This Decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations set forth in 43 CFR 4, summarized in Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals. If an appeal is taken, a Notice of Appeal must be filed in writing with the BLM Nevada State Office, 1340 Financial Boulevard, Reno, Nevada, 89502-7147, no later than 30 days from receipt or issuance of this Decision Record. A copy of the Notice of Appeal and any statement of reasons, written arguments, or briefs must also be served to the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to the BLM Nevada State Office. The appellant has the burden of showing that the Decision being appealed is in error.

If you wish to file a petition for a stay of this Decision, pursuant to 43 CFR 4.21, the petition must accompany your Notice of Appeal. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a Decision pending appeal shall show sufficient justification based on:

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

Copies of the Notice of Appeal and petition for a stay must also be submitted to each party named in the Decision and 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 the BLM Nevada State Office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

You may file a Notice of Appeal by paper hardcopy only. The BLM will not accept a Notice of Appeal transmitted electronically (e.g., by email, facsimile, or social media means). Also, the BLM will not accept a petition for a stay that is transmitted electronically (e.g., by email, facsimile, or social media means). Even if the BLM has previously corresponded with you by email, facsimile, or social media means, the BLM will not accept aforementioned documents

transmitted electronically. Both the Notice of Appeal and any petition for a stay must be received by paper hardcopy at the BLM Nevada State Office address above.

If you have any questions regarding this decision, please contact Alex Jensen, Chief, Fluid Minerals Branch, Division of Energy and Minerals, at (775) 861-6564.

Lacy Trapp
Acting Deputy State Director
Division of Energy and Minerals
Bureau of Land Management - Nevada

Enclosure:

1- Form 1842-1

cc (electronic):

WO310

NVB0000

NVB0100

NVB0200

NV0920 (L. Trapp)

NV0922 (A. Jensen, F. Kaminer, K. Messer, J. Estrella, F. Cisneros)

bcc: Kathryn Brinton, Office of the Solicitor, Pacific Southwest Region,
2800 Cottage Way, Room E-1712, Sacramento, California, 95825
Lease Sale Book March 2025
Reading File: NV-922