



March 30, 2015

Via Fax

Tim Murphy
State Director
U.S. Bureau of Land Management
Idaho State Office
1387 South Vinnell Way
Boise, ID 83709
Fax: (208) 373-3899

Re: Protest of May 2015 Competitive Oil and Gas Lease Sale

Dear Mr. Murphy:

Pursuant to 43 C.F.R. § 3120.1-3, WildEarth Guardians hereby protests the Bureau of Land Management's ("BLM's") proposal to offer five publicly owned oil and gas lease parcels covering 6,474.62 acres of land in the Four Rivers Field Office of Idaho for competitive sale on May 28, 2015. These parcels are identified as A, B, C, D, and E in the BLM's February 27, 2015 Notice of Competitive Oil and Gas lease Sale.¹ In support of the BLM's proposal, the agency prepared an Environmental Assessment ("EA"), identified as EA Number DOI-BLM-ID-B010-2014-0036.²

¹ This notice is available on the BLM's website at https://www.blm.gov/epl-front-office/projects/nepa/39064/55138/59927/Notice_of_Competitive_Oil_and_Gas_Lease_Sale-Idaho_02272015.pdf.

² According to the BLM's notice of competitive lease sale, protests are due "within 30 calendar days of the posting date of the sale," although where a deadline falls on a weekend, a protest is due the following day that the BLM office is open to the public. Here, the protest deadline would have been 30 days after February 27, or March 29. Because March 29 was a Sunday, this protest is thus timely filed on the next day the BLM Idaho State Office is open to the public. Further, although the BLM's notice of competitive lease sale does not state that protests must be filed before close of business, this protest is filed before 5:00 P.M.

STATEMENT OF INTEREST

WildEarth Guardians is a nonprofit environmental advocacy organization dedicated to protecting the wildlife, wild places, wild rivers, and health of the American West. WildEarth Guardians is headquartered in Santa Fe, New Mexico, but has offices and staff throughout the western United States. On behalf of our members, Guardians has an interest in ensuring the BLM fully protects public lands and resources as it conveys the right for the oil and gas industry to develop publicly owned minerals. Guardians submitted comments on the BLM's draft EA for its proposed leasing decision. The mailing address for WildEarth Guardians to which correspondence regarding this protest should be directed is as follows:

WildEarth Guardians
1536 Wynkoop, Suite 310
Denver, CO 80202

STATEMENT OF REASONS

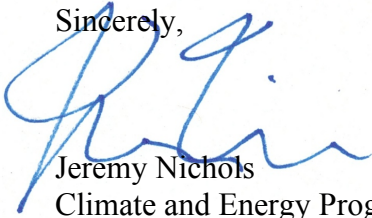
We protest the BLM's action on the basis that the agency has inappropriately proposed to lease the five parcels solely on the basis that it believes there is "potential" drainage of federal minerals occurring. In fact, the BLM states the entire purpose and need for leasing is to address this drainage concern. EA at 3-5. However, nothing in the agency's regulations allow the BLM to lease on the basis of perceived drainage of federal minerals or for the reasons proffered by the agency.

Indeed, there does not appear to have been any official determination by any authorized officer of the BLM that drainage is, in fact, occurring. The lease sale EA asserts that there is a "potential" for drainage from other leases (e.g., EA at 3, citing "potential drainage" as a threat to federal mineral estate), but does not establish that drainage is occurring. Thus, the BLM has no authority to offer the proposed leases under its rules, which requires that BLM first make a determination "that a well *is* draining Federal or Indian mineral resources" prior to taking action thereunder. 43 C.F.R. § 3162.2-2 (emphasis added). This is further bolstered by 43 C.F.R. § 3100.2-1, which states that a "determination by the authorized officer" must be made that drainage is occurring in order for lands to be offered for lease for this reason.

The BLM cites authority at 43 C.F.R. § 3420.1-1(d) in support of its proposal to lease. However, its own rules state that lands that are otherwise unavailable to leasing may be leased if they are "subject to drainage." 43 C.F.R. § 3420.1-1(d). Here, no drainage is occurring, thus the federal minerals are not subject to drainage. Although the BLM may believe that drainage is threatened or "soon will be" threatened (EA at 110), such a belief of a perceived threat does not provide the agency with authority to lease.

For the aforementioned reasons, the BLM cannot proceed with its May 2015 competitive oil and gas lease sale.

Sincerely,



Jeremy Nichols
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