



May 18, 2022

Submitted via eplanning.blm.gov

Bureau of Land Management
Wyoming State Office
5353 Yellowstone Dr.
Cheyenne, Wyoming 82009

Re: Protest to the Proposed June 2022 Quarterly Oil and Natural Gas Lease Sale and Environmental Assessment

Dear State Director Archuleta:

Western Energy Alliance submits this protest on the Bureau of Land Management (BLM) Wyoming State Office's environmental assessment (EA) for the proposed 2022 First Quarter competitive oil and natural gas lease sale. The Alliance also submits additional comments for the administrative record in response to changes from the original draft Lease Sale EA to the final EA and associated finding of no significant impact (FONSI).

The Alliance represents 200 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in Wyoming and across the West. The Alliance represents independents, the majority of which are small businesses with an average of fourteen employees. Alliance members have a specific interest in a viable federal oil and natural gas leasing program, and in the upcoming sale in Wyoming. The Alliance appreciates BLM's efforts to issue the final lease sale EA and associated FONSI but remains seriously concerned about decisions to defer many parcels, as well as certain elements of the analysis in the EA.

BLM's regulations allow for protests regarding BLM's deferral of lease parcels. 43 C.F.R. § 3120.1-3 – titled Protests and appeals – provides:

No action pursuant to the regulations in this subpart shall be suspended under § 4.21(a) of this title due to an appeal from a decision by the authorized officer to hold a lease sale. The authorized officer may suspend the offering of a specific parcel while considering a protest or appeal against its inclusion in a Notice of Competitive Lease Sale.

Only the Assistant Secretary for Land and Minerals Management may suspend a lease sale for good and just cause after reviewing the reason(s) for an appeal.

The Protests and appeals regulation authorizes BLM to defer parcels while considering a protest and does not otherwise prohibit BLM from revisiting its proposed deferral of parcels. The regulation does not diminish BLM's regulatory authority and discretion to

offer a parcel for sale that has been properly nominated, noticed to the public with all applicable stipulations, and analyzed under a Lease Sale EA.

The Lease Sale EA and FONSI issued in April proposes deferral of numerous parcels that are eligible and should be offered for lease, including parcels within existing oil and natural gas units and producing fields, where deferral is not supported by the administrative record or the governing Resource Management Plans (RMP).

The decision to defer these parcels was based on the “discretion” of the State Director or a prioritization process for parcels within Greater Sage-Grouse (GrSG) habitat. These deferrals are arbitrary and capricious under the Administrative Procedures Act (APA), and not in conformance with the governing RMPs, which designated these lands as open for oil and natural gas development, in violation of the Federal Land Policy and Management Act.

At this time, BLM has not announced a schedule for a sale in the third quarter of 2022 in Wyoming, nor has it initiated the public involvement process for any such sale. We urge BLM to reconsider these deferrals and offer the affected parcels for sale at the next quarterly lease sale in Q3 2022. BLM can incorporate the analysis that has already been fully completed for the deferred parcels into a new EA, which can be finalized in time to comply with the statutory mandate to hold a lease sale in each quarter when parcels are available.

The State Director does not have the discretion to forgo a lease sale simply because they determine all available parcels may have low potential for development, so the solution outlined above ensures BLM Wyoming’s lease sale schedule complies with all applicable laws and regulations.

Protest of Deferred Parcels

The Alliance protests the proposed deferral of 61 parcels from the lease sale on the basis of State Director “discretion” based primarily on being deemed to have “low potential” for oil and natural gas production. The following parcels are provided as examples of the arbitrary nature of the deferrals in the EA, as they fall within existing oil and natural gas units and/or are adjacent to existing leases and production.

Deferral of these parcels will actually result in additional surface disturbance because companies will not be able to efficiently develop their leases with longer horizontal wells and will have to construct additional pads and drill additional wells to access and develop adjacent leased resources.

1. **Parcel 1113.** As depicted on parcel maps WY-2022-03-1107, WY-2022-03-1113 and WY-2022-03-1114, this parcel is in an existing oil and natural gas unit, entirely surrounded by existing leases, and in close proximity to an existing field with

producing wells. This parcel does not encompass any Greater Sage-Grouse (GrSG) habitat. See also Lease Sale EA at 51 and 70.

2. **Parcels 1314 and 1316.** As depicted on parcel maps WY-2022-03-1314 and WY-2022-03-1316, these parcels are in an existing oil and natural gas unit and adjacent to areas designated as having a “high potential” for oil and natural gas. See also Lease Sale EA at 65.
3. **Parcel 0861.** As depicted on parcel maps WY-2022-03-0861 and WY-2022-03-0865, this parcel is located near an existing oil and natural gas unit, and adjacent to existing leases to the west and south. See also Lease Sale EA at 63.
4. **Parcels 0864 and 0868.** As depicted on maps WY-2022-03-0864 and WY-2022-03-0868, these parcels are in an existing oil and natural gas unit, adjacent to existing leases to the north, south, east and west, and within areas designated as having a “high potential” for oil and natural gas. See also Lease Sale EA at 63.
5. **Parcels 1034 and 7175.** As depicted on maps WY-2022-03-1034 and WY-2022-03-7175, these parcels are adjacent to existing leases to the south, east and west, and within an area designated as having a “high potential” for oil and natural gas. See also Lease Sale EA at 64 and 66.
6. **Parcels 7077, 7078 and 7079.** As depicted on parcel maps WY-2022-03-7077, WY-2022-03-7078, and WY-2022-03-7079, these parcels are adjacent to an existing oil and natural gas unit and field to the east, and in close proximity to existing leases to the north, west and east. The parcels are not located in a designated GrSG priority habitat management area (PHMA). See also Lease Sale EA at 55.
7. **Parcel 7111.** As depicted on parcel map WY-2022-03-7111, this parcel is in close proximity to an existing producing oil and natural gas field to the west, an existing oil and natural gas unit to the east, and in close proximity to existing leases to the north, west and east. It is also just to the west of an area designated as having a “high potential” for oil and natural gas. It is not located in designated PHMA. See also Lease Sale EA at 55.
8. **Parcel 7131.** As depicted on parcel map WY-2022-03-7131, this parcel is adjacent to existing leases to the north and south, within an existing unit, within an area analyzed by an oil and natural gas field development environmental impact statement (EIS), and within an area designated as having a “high potential” for oil and natural gas. See also Lease Sale EA at 66.
9. **Parcel 7138.** As depicted on parcel maps WY-2022-03-1115 and WY-2022-03-7138, this parcel is located in an existing oil and natural gas unit, adjacent to

existing leases to the south and east, and within areas designated as having a “high potential” for oil and natural gas. See also Lease Sale EA at 66.

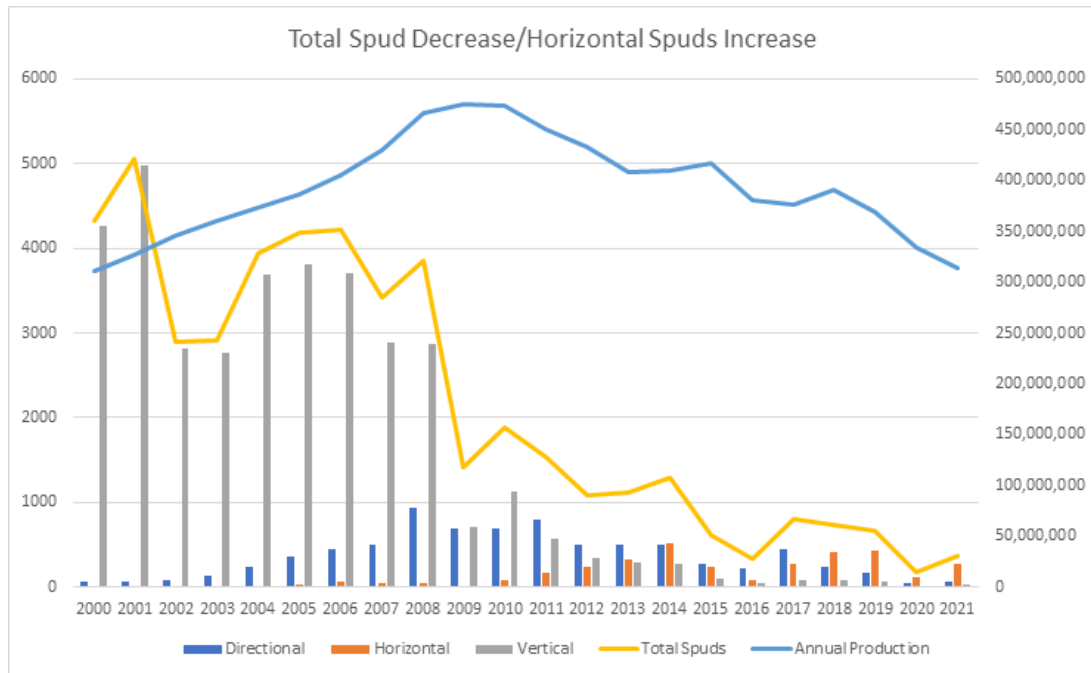
10. **Parcel 7171.** As depicted on parcel map WY-2022-03-7171, this parcel is located adjacent to an existing oil and natural gas unit, and existing leases to the northwest and southwest; it is also just north of an area designated as having a “high potential” for oil and natural gas. It is designated as “non-habitat” and not located in designated PHMA. See also Lease Sale EA at 56.
11. **Parcel 7179.** As depicted on parcel map WY-2022-03-7179, this parcel is located south of an existing oil and natural gas unit, and adjacent to parcels to be offered for sale to the south. It is not located in designated PHMA. See also Lease Sale EA at 56.
12. **Parcel 7189.** As depicted on parcel map WY-2022-03-7189, this parcel is located south of an existing oil and natural gas unit, and adjacent to parcels to be offered for sale to the south. It is not located in designated PHMA. See also Lease Sale EA at 56.

These parcels are specifically mentioned to demonstrate the many errant decisions that led to their deferral, and are not intended to be a comprehensive list of all arbitrary deferrals that resulted from the State Director’s discretion in issuing the EA. As such, we protest the exclusion of all 61 parcels that were deferred on this basis.

Additional Comments on Prioritization, Deferrals and Greater Sage-Grouse

In the EA, BLM does not explain – and is in fact silent – on the significant technological advances in horizontal drilling that have been made in Wyoming since 2015, when the agency finalized RMP amendments for the Greater Sage-Grouse. For example, at present, the average horizontal well in the Powder River Basin can be drilled to a depth of approximately 1.5 miles and at a lateral distance of nearly 2 miles.

These significant distances result in substantially less surface disturbance while at the same time increasing production efficiency. The following graph details how horizontal and directional drilling has replaced vertical wells over the past decade:



In the year 2000, over 4000 wells were spud in Wyoming and the following year (2001) saw combined oil and natural gas production of 327 million barrels of oil equivalent (BOE). In 2019 just over 650 wells were spud, and the production in 2020 was 334 million BOE. In other words, despite one-sixth as many wells being spud, production of oil and natural gas in 2020 actually exceeded 2001.

Further, it's important to note that vertical wells were drilled on single-well pads, while both directional wells and horizontal wells now have multiple wells per pad, so well count is no longer a good surrogate for surface disturbance. Therefore, the number of pads required to recover the same amount of hydrocarbons is even less than the aforementioned reduction in well count total from 2001 to 2019.

The decrease in surface disturbance and access roads created by the transition to horizontal drilling, and the reduction in habitat fragmentation as a result, needs to be accounted for by BLM in the EA. Nevertheless, BLM makes no attempt to reconcile this fact with the process for leasing in sage grouse general habitat management areas (GHMA) and PHMAs and instead has arbitrarily deferred numerous parcels.

BLM's draft EA applied all appropriate lease stipulations on the parcels nominated for sale. The GrSG RMPs have already achieved the objective of prioritizing areas outside of habitat for leasing and development over those in GHMA and PHMA by virtue of the onerous restrictions applied; a further prioritization is not necessary. In fact, IM 2016-143 reiterates that leasing is still allowed in GrSG priority habitat with appropriate stipulations—an outcome consistent with BLM's multiple use mandate.

As such, we disagree with BLM's decision to defer a large number of parcels merely because they are ostensibly in priority habitat. BLM's decision is arbitrary and capricious given the stipulations applied to PHMA (e.g., No Surface Occupancy) and the fact that these parcels can be developed with long horizontal lateral wells that would result in no surface disturbance on the surface of those parcels. Moreover, given that BLM's 2015 GIS mapping layers for habitat are out of date and inaccurate, BLM should not rely upon these data in making its deferral decisions.

Between the draft and final EA, BLM deferred a combined 267 parcels due to a supposed "prioritization" of parcels outside sage grouse habitat. In fact, BLM established an extensive prioritization process in Table 3.27 of the draft EA, and following that process BLM determined that 24 parcels should be deferred. However, BLM ignored this determination and instead decided to defer 262 parcels, apparently choosing to defer all parcels in priority habitat that were flagged in Table 3.27 or are within 4 miles of a core area lek, as listed in Table 3.28.

BLM has further deferred 5 additional parcels in the final EA due to sage grouse restrictions. These 267 deferrals ignore BLM's own process for prioritizing parcels based on the 2015 RMP amendments, so we protest their exclusion from the Q2 sale.

BLM was prepared to offer each of these parcels for lease in early 2021 before the entire sale was delayed; clearly, then, there is no resource constraint at BLM that precludes them from offering the parcels for lease with the relevant stipulations attached. Additional deferrals of more than 250 parcels is simply arbitrary, inconsistent and not in conformance with the RMPs designation of these parcels as open to oil and natural gas leasing or with BLM's multiple use mandates under FLPMA.

Royalty Rate

The Alliance also disagrees with BLM's decision to raise the royalty rate from 12.5 to 18.75% for the leases that are offered in the Q2 sales. BLM claims this change will help ensure the federal government is receiving its "fair share" of the revenues produced by oil and natural gas production on federal lands, but instead it will merely act to further depress interest in development on BLM acreage.

Companies already contend with much higher costs and uncertainty regarding the ability to develop on public lands because of the onerous regulations imposed by BLM, as opposed to state and private lands. A company's internal calculation of where to deploy its capital necessarily involves a comparison of the relative costs of production among various projects. As a result, this substantial increase in the royalty rate will further reduce interest in federal leases, and BLM's overall revenues from leasing are likely to decrease under a rate of 18.75% as opposed to 12.5%. At a time when increased domestic production is necessary to combat soaring energy prices, BLM should not artificially restrict development with a higher royalty rate.

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Conclusion

BLM has done extensive analysis of numerous parcels that were deferred at both the draft and final Lease Sale EA stages for the second quarter sale in Wyoming. BLM should move forward with the Q2 sale as planned, while expeditiously completing the necessary EA for a Q3 sale that includes, but is not limited to, the parcels that were deferred from the Q2 sale.

BLM's deferrals throughout the unnecessarily lengthy environmental review for the Q2 sale were arbitrary and based on a discretionary decision by the State Director that does not remove the legal requirement to conduct a Q3 sale, nor does it preclude the deferred parcels from being offered at that sale. We urge BLM to solve these two problems at once.

Sincerely,



Tripp Parks
Vice President of Government Affairs