

**United States Department of the Interior  
Bureau of Land Management**

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**DOI-BLM-MT-0000-2018-0007-EA  
January 31, 2019**

**Oil and Gas Lease Parcel Sale  
March 25-27, 2019**

**FINDING OF NO SIGNIFICANT  
IMPACT**

***Location:* Billings, Glasgow, Havre, Miles City, and South  
Dakota Field Offices**

**see EA Appendix A for list of lease parcels by  
number and legal description**

U.S. Department of the Interior  
Bureau of Land Management  
Montana State Office  
5001 Southgate Drive  
Billings, MT 59101



**United States Department of the  
Interior Bureau of Land  
Management  
Montana State  
Office 5001  
Southgate Drive  
Billings, MT 59101**

**Finding of No Significant Impact Environmental Assessment  
DOI-BLM-MT-0000-2018-0007-EA  
Montana State Office, March 29, 2019, Competitive Oil and Gas Lease Sale**

**Introduction:**

Pursuant to requirements of the Mineral Leasing Act of 1920 (MLA), 30 U.S.C. §§ 181 *et seq.*, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, Pub. L. No. 100-203, BLM Montana-Dakotas holds competitive oil and gas lease sales, on a quarterly basis, in order to respond to public requests for “nominated” Federal lands to be made available for oil and gas leasing. *See* 30 U.S.C. § 226(b)(1)(A); 43 C.F.R. § 3120.1-1. As provided in sections 102(a)(12) and 103(l) of the Federal Land Policy and Management Act (FLPMA) 43 U.S.C. §§ 1701(a)(12), 1702(l), oil and gas leasing is a “principal use” for the public lands. The BLM issues oil and gas leases on the public lands in order to provide for the orderly development of the fluid mineral resources under its jurisdiction in a manner that is consistent with the multiple use management provided for by FLPMA. *e.g.*, 43 U.S.C. § 1702(c). For example, Section 102 of FLPMA, 43 U.S.C. § 1701(a)(12) imposes upon the BLM a responsibility to manage the public lands in a manner that “recognizes the Nation’s need for domestic sources of minerals.” In most instances, before oil and/or gas, which could assist in meeting the Nation’s needs for domestic sources of minerals, can be produced from public lands, an oil and gas lease must be issued for the lands. As such, the offering and issuance of oil and gas leases through the Lease Sale meets the purpose and need for action relevant to the responsibilities placed upon the BLM pursuant to the MLA and FLPMA. *See generally* 43 U.S.C. §§ 1701 *et seq.*; *see also* 42 U.S.C. §§ 4321 *et seq.*

The BLM reviewed publically submitted expressions of interest (“EOIs”), and determined that 322 parcels covering approximately 180,366 acres of federal minerals under the jurisdiction of the BLM Billings, Butte, Dillon, Glasgow, Havre, Miles City, and North Dakota Field Offices are located within areas determined to be open to oil and gas leasing in the 2015 Billings, HiLine, Miles City and South Dakota Resource Management Plans (RMPs), the 2009 Butte RMP, the 2006 Dillon RMP, and the 1988 North Dakota RMP.

The BLM prepared an Environmental Assessment (EA) to disclose and analyze the potential environmental consequences from offering 322 parcels in a competitive oil and gas lease sale tentatively scheduled to occur March 25-27, 2019. The 322 parcels are located in seventeen counties in Montana (Beaverhead, Madison, Carbon, Musselshell, Valley, Blaine, Toole, Big Horn, Carter, Custer, Dawson, Fallon, Powder River, Richland Roosevelt, Rosebud, and Wibaux), Bowman County North Dakota, and Fall River and Harding County South Dakota.

The EA was prepared based on available information including inventory and monitoring data files, and considers the effects of a No Action Alternative, the Proposed Action, and Selected Action.

The No Action Alternative (Alternative A) would exclude all 322 lease parcels from the competitive oil and gas lease sale. Surface management would remain the same and any ongoing oil and gas development would continue on surrounding Federal, private, and State leases.

The Proposed Action (Alternative B) would be to offer for sale 322 lease parcels covering approximately 180,366 Federal mineral acres for oil and gas leasing, with standard federal lease terms and conditions, and required stipulations and/or lease notices as identified in Appendix A of the EA. The 322 parcels includes 76 parcels moved from the December 2018 sale and 233 parcels moved from the June 2018 sale due to litigation. The BLM identified applicable lease stipulations (as required by Title 43 Code of Federal Regulations 3131.3) to individual parcels to address specific resource concerns and ensure consistency with the RMPs.

The Selected Action (Alternative C) would be to offer for sale 305 parcels covering approximately 166,999 Federal mineral acres for oil and gas leasing, with standard federal lease terms and conditions, and required stipulations and/or lease notices as identified in Appendix A of the EA. The stipulations assigned for Alternative B were carried forward to Alternative C. The parcels are located in the Billings, Glasgow, Havre, Miles City, Dillon, North Dakota, and South Dakota Field Offices. Alternative C was developed based upon consideration of public comment submitted during the comment periods described below, and upon further consideration of relevant science and analysis of resource concerns. Compared to Alternative B, Alternative C would defer twelve parcels in Beaverhead and Madison County, one parcel in Bowman County ND, three parcels in Harding County, SD, and one parcel and parts of four others in Valley County, MT.

On October 11, 2018, the BLM initiated a scoping comment period by uploading project information to the BLM's NEPA e-Planning website, and mailing notices to interested parties (including private surface owners), tribes, and local, state, and federal agencies. On November 20, 2018, the BLM posted the EA (DOI-BLM-MT-0000-2018-0007-EA) and a draft unsigned Finding of No Significant Impact (FONSI) to the e-Planning website for a 30-day public review and comment period (November 20-December 21, 018). The BLM also mailed or emailed a notice to interested parties that the EA was available for review (i.e. people/non-government organizations that commented on scoping, tribes, and local, state, other federal agencies). On January 31, 2019, the BLM posted an updated EA, response to comments, and unsigned FONSI to the e-Planning website to initiate a 30-day protest period.

### **Plan Conformance and Consistency:**

The selected action (Alternative C), which would offer 305 parcels for lease conforms to the 2015 Billings, HiLine, Miles City and South Dakota RMPs, and associated Records of Decision and Final Environmental Impact Statements (FEISs). All the parcels are located in areas designated open to oil and gas leasing subject to standard lease terms, moderate constraints such

as stipulations that require timing limitations, or major constraints such as stipulations that prohibit surface occupancy and use. The BLM applied stipulations to the 305 lease parcels consistent with the requirements of the RMPs (Appendix A).

**Finding of No Significant Impact:**

Based on my review of the updated EA, public comments, the Field Office RMPs, and other applicable laws, regulations, and policy, I have determined that Alternative C is not a major federal action, and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. Therefore, an environmental impact statement (EIS) is not required. Any future proposed development on lease parcels would be subject additional site-specific NEPA analysis and documentation. I have based my determination upon consideration of the context and intensity of the project as defined by 40 CFR §1508.27 and described below:

**Context:**

Alternative C would occur within the boundaries of the Billings, Havre, Glasgow, Miles City, and South Field Office planning areas. The project directly involves approximately 166,999 acres of federal minerals administered by the BLM. The purpose of offering parcels for competitive oil and gas leasing is to provide opportunities for private individuals or companies to explore for and develop federal oil and gas resources after receipt of necessary approvals and to sell the oil and gas in public markets. Oil and gas produced from federal leases would be in addition to oil and gas produced from private and state owned leases.

Impacts to resources would be similar to, and within the scope of those described and considered within the RMPs and their respective FEISs. The EA that was prepared identifies stipulations and lease notices that avoid and minimize impacts to resources, which would be incorporated up front into any future oil and gas development. No surface disturbance would occur as a result of my decision. Additional site-specific NEPA analysis would occur at the Application for Permit to Drill (APD) stage of development, and Conditions of Approval (COAs) and/or additional mitigation could be applied to address site-specific resource concerns. My decision to offer 305 parcels for lease in a competitive bid is consistent with applicable laws, regulations, and policy, and does not cause any known or identified significant impacts of international, national, regional, or state-wide importance.

**Intensity:**

The following discussion is organized around the Ten Significance Criteria described in 40 CFR § 1508.27 and incorporated into resources and issues considered (includes supplemental authorities Appendix 1, H-1790-1) and supplemental Instruction Memoranda, Acts, regulations and Executive Orders. The following criteria have been considered in evaluating intensity for this proposal:

**1. Impacts may be both beneficial and adverse:**

There are no direct impacts to resources from the act of leasing. The EA analyzes a project

specific reasonably foreseeable development scenario to identify indirect impacts from leasing that may occur as a result of potential future development. Stipulations and lease notices designed to avoid and minimize impacts to the various resources and land uses were incorporated in the design of the Selected Action. None of the environmental effects associated with offering the proposed lease parcels for sale, as discussed in detail in the EA, were determined to be significant, nor do the effects exceed those described in the RMPs and their respective FEISs.

## **2. The degree to which the selected alternative will affect public health or safety:**

The selected alternative does not authorize any lease exploration or development activities, and is designed to minimize impacts to other resources as well as to public health and safety. Upon receipt of an APD, the BLM would initiate a site-specific NEPA analysis that considers the direct, indirect, and cumulative effects of a specific action, and identify mitigation needed to protect public health and safety.

In all potential exploration and development scenarios, the BLM would require the use of best management practices (BMPs) documented in “Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development” (USDI and USDA 2007), also known as the “Gold Book.” Standard federal lease terms and conditions, and federal regulations would apply to each parcel offered for sale. For example, spill prevention plans would be required and any drilling operations would be conducted in accordance with the safety requirements of 43 C.F.R. Subpart 3160, the Federal Onshore Oil and Gas Orders (“Onshore Orders”), BMPs recommended by the American Petroleum Institute, and other industry requirements for the protection of worker safety and public health. The BLM could also identify Conditions of Approval (COAs), based on site-specific analysis that could include moving the well location, restrict timing of the project, or require other reasonable measures to minimize impacts to other resource values, land uses, or users not addressed in the lease stipulations at the time operations are proposed (43 CFR § 3101.1-2).

## **3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas:**

Offering 305 parcels for lease would have no direct impacts on cultural resources. At the leasing stage, the BLM applied lease terms and cultural resource lease notices (LN 14-2, LN 14-5, LN 14-14, LN 14-22, LN 14-25, LN 14-29, LN 14-30, LN 14-32, LN 14-33, LN 14-34, LN 14-38) to protect cultural resources. The BLM will not approve any ground disturbing activities that may affect such properties or resources until it completes its obligations associated with the stipulations applied to each respective parcel, as well as applicable requirements of the National Historic Preservation Act and any other authorities. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated.

There are no impacts to designated park lands, wilderness, wild and scenic rivers, or ecologically critical areas in proposed parcels. By requiring no surface occupancy within floodplains, NSO 11-70 would afford protection to prime farmland that occurs along

stream and river valleys.

**4. The degree to which the effects on the quality of the human environment are likely to be highly controversial:**

Alternative C conforms with current land use plan guidance which allocated federal mineral estate administered by the BLM as either available or administratively unavailable for oil and gas leasing. As a factor for determining whether or not to prepare a detailed environmental impact statement (within the meaning of 40 CFR section 1508.27(b) (4)), “controversy does not refer to the existence of opposition to a use.” Rather, a federal action is controversial “if a substantial dispute exists as to [its] size, nature, or effect.” *Northwest Environmental Defense Center v. Bonneville Power Administration*, 117 F.3d 1520, 1536 (9th Cir. 1997).

No anticipated effects have been identified that are controversial. During the public scoping and EA comment period, the BLM received and considered comments related to oil and gas leasing, hydraulic fracturing and horizontal drilling may have on the environment. Public comments specifically referenced a court case, Center for Biological Diversity versus BLM 937 F. Supp. 2d 1440 (2013); Case # C 11-06174 PSG. The BLM reviewed this decision and determined that the facts presented in this case are not the same as those for the Montana / Dakotas BLM March 2019 lease sale. This EA considers the effects of hydraulic fracturing on water resources, and does not discount potential effects due to low development potential. It also provides water resources information specific to the Tongue River watershed, which was identified by the public as a resource issue of concern along the Montana / Wyoming border. The BLM provided a detailed response to this FONSI consideration in the Response to Comments, Appendix F.

Offering 305 parcels for lease would have no direct impacts on water resources. Any potential effects on water from the sale of lease parcels would occur at the time the leases are developed at the APD stage. The use of any specific water source on a federally administered well requires review and analysis of the proposal through the NEPA process, which will be completed at the APD stage. The Gold Book, Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development (BLM and USFS 2007), would be followed, and site-specific mitigation measures, BMPs, and reclamation standards would be implemented and monitored in order to minimize effects to water resources. All proposed actions must comply with local, State, and Federal regulations, including Montana water laws. In addition to federal regulations, the State of Montana’s Board of Oil and Gas Conservation (MBOGC) have regulations, which ensure that all resources including groundwater are protected. The MBOGC regulations require new and existing wells, which will be stimulated by hydraulic fracturing, to demonstrate suitable and safe mechanical configuration for the stimulation treatment proposed. The BLM inspects wells prior to production to ensure all federal laws have been followed to ensure that that potential impacts to water resources are avoided/minimized. Refer to the EA, Appendix F Response to Comments.

**5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks:**

Selling oil and gas leases is not unique or unusual. States and private mineral owners also sell oil and gas leases. The EA describes typical exploration and development activities that could occur on federal leases along with the potential impacts from those activities as well as mitigation measures and applicable stipulations designed to avoid or minimize impacts. There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

Any potential effects on water from the sale of lease parcels would occur at the time the leases are developed at the APD stage. Upon receipt of an APD, the BLM would coordinate with the appropriate Surface Management Agency (SMA) and initiate a site-specific NEPA analysis with public review opportunities to more fully analyze and disclose potential effects of specifically identified activities. All proposed actions must comply with local, State, and Federal regulations. Refer to the discussion in number 4 above.

**6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration:**

This proposed action does not establish a precedent for future actions. The Federal oil and gas lease does not authorize any exploration or development activities; however, the lease provides the lessee with the opportunity to explore for and develop oil and gas resources after receipt of necessary approvals. The BLM will prepare an environmental record of review (43 CFR § 3162.5-1(a)) and comply with NEPA to evaluate exploration and development projects before approval of a site-specific project.

**7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership:**

This EA is tiered to the information and analysis and conforms to the decisions contained in the applicable ROD and RMP for each planning area included in this EA (2015 Rocky Mountain and Great Basin Regions Records of Decision (RODs), and 1988 North Dakota ROD, and associated Records of Decision and Final Environmental Impact Statements (FEISs). The RODs and RMPs are in compliance with all Federal laws, regulations, and policy. The direct, indirect, and cumulative effects of oil and gas leasing were considered at the appropriate scale for the full Reasonably Foreseeable Development Scenario (RFD) for the Field Offices in the FEISs for the RMPs. The decisions on what areas to not lease, lease with standard, moderate, or major stipulations is done at the RMP level in order to look at the larger picture of impacts (including cumulative impacts).

There are no surface-disturbing activities authorized at the leasing stage. Alternative C by itself or in connection with other activities would not have significant impacts. Exploration and development projects will be analyzed at the APD stage to determine the significance of site-specific cumulative impacts.

**8. The degree to which the action may adversely affect districts, sites, highways,**

**structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources:**

Alternative C will not adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places. Based on previous and ongoing cultural surveys and through mitigation by avoidance, no adverse impacts to scientific, cultural or historical resources were identified or anticipated. There are no features within the analysis area listed or eligible for listing in the National Register of Historic Places that would be adversely affected by the proposed action.

**9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on BLM's sensitive species list:**

Offering 305 parcels for lease would have no effect to listed threatened/endangered/proposed species. Either habitat is not present for listed species, or suitable habitat is covered with a stipulation. TES 16-2 provides: *The BLM may require modifications to or disapprove proposed activity that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat. The BLM will not approve any ground-disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 U.S.C. § 1531 et seq., including completion of any required procedure for conference or consultation.*

The BLM completed Section 7 consultation for each of its Resource Management Plans. Additional project specific consultation, if necessary, would occur prior to approval of an APD.

Based upon public comments, the BLM reviewed relevant science and completed additional analysis of sage-grouse resource concerns with respect to a potential impacts on a migratory corridor in Valley County, Montana, and off-site impacts from horizontal drilling on active leks in North and South Dakota.

Specifically, the BLM considered science documenting sage-grouse use of a migratory corridor between Saskatchewan and Valley County, Montana. Tack et. al. 2009, Tack et. al. 2012, and Newton et. al. 2017 documented migratory movements of sage-grouse in the northeastern fringe of their range in Montana and Saskatchewan. These studies formed the basis for the State of Montana to designate and set the boundaries of a Connectivity Area. The BLM is deferring all parcels located within the boundaries of this Connectivity Area because the science clearly demonstrates the conservation importance of the Connectivity Area, the BLM does not have a stipulation to protect the migratory resource values at risk, and the MT EO stipulations are primarily aimed at leks and nesting habitat.

The BLM also reviewed potential locations for off-site horizontal drilling around one parcel in

Bowman County, ND and three parcels in Harding County, SD. The parcels are located in BLM designated PHMA habitat and the BLM applied No Surface Occupancy stipulations. However, off-site drill placement would remain within the 3.1 mile lek buffers around active leks, and designated PHMA habitat. Any off-site well placement would negatively affect existing sage-grouse leks. Additional coordination is needed with the states of North and South Dakota to address conservation of sage-grouse habitat across all lands. Therefore, the BLM is deferring these parcels under Alternative C.

Impacts to habitat for other BLM sensitive species are avoided or minimized through stipulations applied to this lease sale and Standard Operating Procedures, BMPs, and Conditions of Approval applied at the APD stage. Refer to additional discussion in the EA.

**10. Whether the action threatens a violation of a Federal, State, local, or Tribal law, regulation or policy imposed for the protection of the environment, where on-Federal requirements are consistent with Federal requirements:**

Alternative C does not violate any known federal, state, local or tribal law or requirements imposed for the protection of the environment. State, local, and tribal interests were given the opportunity to participate in the environmental analysis process. As documented in the EA, the proposed action is consistent with applicable land management plans, policies and programs.

**Recommended by:**

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Mark Albers, District Manager, \_\_\_\_\_  
North Central Montana District Date

**Recommended by:**

\_\_\_\_\_  
Diane Friez, District Manager, \_\_\_\_\_  
Eastern Montana/Dakotas District Date

**Approved by:**

\_\_\_\_\_  
Donato J. Judice, Deputy State Director, \_\_\_\_\_  
Division of Energy, Minerals, & Realty Date