State of Utah

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PUBLIC LANDS POLICY COORDINATING OFFICE

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July 15, 2016

Submitted via electronic mail: blm_ut_vernal_comments@blm.gov

Ester McCullough
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Bureau of Land Management
Vernal Field Office
Attn: Stephanie Howard
170 South 500 East
Vernal, Utah 84078

Subject: November 2016 Oil and Gas Lease Sale
DOI-BLM-UT-G010-2016-033-EA

Dear Ms. McCullough:

The State of Utah has reviewed the draft Environmental Assessment for the BLM's November 2016 Competitive Oil and Gas Lease Sale. We are surprised and disappointed by the number of deferrals the BLM has listed within the EA. The BLM is offering only twenty-eight (28) parcels for lease, while deferring seventy-nine (79). Of the deferred parcels, all are open for leasing under the Resource Management Plan (RMP), however, the parcels are deferred for a variety of reasons designed to protect habitat, lands with wilderness characteristics, and sensitive species without the benefit of actual environmental analysis. The deferment of so many parcels is an abuse of BLM's deferment policy. Most if not all of the deferred parcels could be part of the lease sale if BLM applied standard best management practices and newly developed sage-grouse stipulations. The State strongly recommends BLM examine the deferred parcels for squandered opportunities and reinstate them into the the planned November Lease Sale.

Checkerboard Approach is Bad for Energy Production and Environment

The BLM's failure to include 79 nominated land parcels in the upcoming lease sale leads to a checkerboard approach to production rather than allowing for a consolidation of operations. Disallowing this approach leads to unnecessary costs, increased emissions, and a hodgepodge of land use. Consolidating operations is the goal of every operator because it

spawns important efficiencies, such as fewer facilities, fewer roads, less energy use, and lower emissions. The EA failed to consider the increase in carbon dioxide emissions and other ozone-emitting chemicals that occur as the result of staggered and un-consolidated production. BLM must include the negative environmental impacts of un-consolidated production in the analysis of this lease sale.

Deferment of Prioritized Sage-grouse Parcels must be Time-delimited

BLM cannot defer leasing of oil and gas parcels in potential sage-grouse habitat indefinitely. According to the EA, 28 of the deferred parcels were "to prioritize oil and gas leasing and development in a manner that minimizes resource conflicts in order to protect important habitat and reduce development time and costs."[1] The RMP Amendment for greater sage-grouse allows for prioritization of leasing in non-habitat areas first, then proceeds to least suitable habitat.[2] As many of these parcels have been deferred for years prior to and now after the development of the RMP Amendments, there is no certainty that the parcels with potential sage-grouse habitat will ever be offered for lease. The BLM's RMP Amendments are designed to allow for the sustained use and multiple yield of BLM land while protecting sage-grouse habitat, however, it appears that any nominated parcels, which include sage-grouse habitat, will now be deferred indefinitely and have become de facto unavailable for leasing. BLM must provide some certainty to the energy industry that deferment of these parcels is temporary and there is a plan to issue them at a later date.

The across-the-board deferral of parcels in Sage Grouse habitat is excessive. The State made specific, practical requests in its May 6 comment letter for the protection of sage-grouse habitat, and these requests should be incorporated into the EA. The State requested avoidance and minimization of disturbance impact within sagebrush habitats and compensatory mitigation for impacts which cannot be avoided. Mitigation methods should follow the State's 2013 *Conservation Plan for Greater Sage-grouse in Utah.* The State also recommended seasonal stipulations to avoid construction and vehicle noise disturbances during brood-rearing activities, and seasonal stipulations in the winter to reduce impacts to wintering sage-grouse. Topographic screening and the maintaining and enhancing of wet meadows and riparian habitat are also important management measures that could feasibly be used to mitigate and reduce impacts. As such, the parcels containing sagebrush habitat do not need to be deferred in the lease sale, and the BLM should revisit the draft EA so that these recommendations can be incorporated.

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[1] DOI-BLM-UT-G010-2016-033-EA, Appendix D. Deferred Parcels
[2] Utah Greater Sage-Grouse Approved Resource Management Plan Amendment September 2015, Section 2.2.6 Mineral Resources.

State Courtesy Review Used to Defer Parcels

The State reviewed the proposed preliminary list of lands considered for sale in a letter dated May 6, 2016. In that letter, the State, in conjunction with the Utah Division of Wildlife Resources (UDWR) recommended measures to minimize the impact to federally listed species, state sensitive species, game, and sportfish that occur on potential lease parcels. The State's recommendations for sensitive parcels included a prohibition on construction during certain periods of the year, mitigation of construction activities, and best management practices. At no point did the State request or recommend that any parcels be deferred in the lease sale.

The State's review of the BLM's preliminary list is a courtesy provided by the State, in the spirit of FLPMA's requirement for coordination between the State and the BLM. It is an opportunity for the BLM to benefit from the State's expertise in the field of wildlife management. Unfortunately, when the BLM uses the State's recommendations in the preliminary review as cause to defer parcels from the lease sale, it disincentives the State from providing a helpful, thorough review of future lease sales. The State will not continue to coordinate with the BLM in providing wildlife recommendations if that information is used to further stonewall oil and gas leasing. The BLM must incorporate the State's specific recommendations contained in the preliminary review.

The BLM should offer all 79 parcels for lease, while incorporating the specific stipulations request by the State. This would allow for responsible development of oil and gases resources while protecting wildlife habitat and recreation. The State's proposal would allow for a balanced approach to these competing demands. Unfortunately, the BLM's deferral of 79 parcels is a one-sided approach that is neither necessary nor appropriate to the BLM's mission.

BLM Must Conduct Oil and Gas Leasing as Directed by Law and Agency Policy

The BLM's 2010 Instruction Memorandum for Oil and Gas Leasing Reform directs the BLM to apply stipulations to new leases when necessary. Stipulations are the proper legal tool to protect and mitigate harms to sensitive environments in potential lease parcels. Continual deference of a parcel only causes uncertainty for land managers and natural resource users. The 2010 IM requires field offices to perform a "Lease Parcel Review and Lease Issuance Process." The process states:

> *The purpose of lease parcel review by the field offices is to* ***determine the conditions under which leasing and eventual development should occur*** *if*

> *allowed to proceed. Lease parcel reviews for expressions of interest will be conducted and documented simultaneously with the NEPA compliance process. The goal of the parcel review and NEPA compliance process is to (1) determine parcel availability;* ***(2) evaluate existing stipulations****;* ***(3) identify new stipulations, if applicable****; (4) provide for public involvement; and (5) develop detailed background information for the NEPA compliance process.* (Emphasis added.)

In accordance with the 2010 IM, the BLM should focus its efforts on "evaluating existing stipulations" and "identifying new stipulations." These new stipulations should include the stipulations recommended by the State in its review of the preliminary list for the November lease sale. The BLM's massive deferral of parcels is a dereliction of its duty to identify new stipulations under the 2010 IM.

The 2010 IM also calls on BLM field offices to evaluate stipulations under the relevant RMP. The 2010 IM states:

> *Field offices will determine whether leasing the parcel is in conformance with the RMP. In addition, the field office will evaluate whether oil and gas management decisions identified in the RMP (including lease stipulations) are still appropriate and provide adequate protection of resource values (including, but not limited to, biological, cultural, visual, and socioeconomic resource values).* ***If the lease stipulations do not provide adequate resource protection, it may be necessary to develop new lease stipulations or revise existing ones.*** *A lease stipulation may be revised consistent with modification criteria found in the RMP, or as necessary given conditions or issues not anticipated in the RMP.* (Emphasis added.)

When existing lease stipulations under the RMP do not provide adequate protection for wildlife habitat, the BLM should, in coordination with the State, developed new lease stipulations. The State has done exactly that with its recommendations on the BLM's preliminary list, asking the BLM apply certain stipulations that go beyond the stipulations in the RMP. The BLM should follow suit rather than merely keep 79 parcels in a state of flux and uncertainty.

Insufficient Analysis as Deferment Harms Utah Economy

BLM has failed to consider the impacts of the deferments in the socio-economic section of the environmental analysis. The State receives fifty percent of the leasing bonus money from these federal sales and there is strong interest among bidders for parcels in the Uintah Basin. By not offering parcels that are legally available, the BLM will harm the economic viability of the Uintah Basin and the State of Utah, and will cost the United States millions of dollars in lost revenue. BLM must consider include these impacts in the EA.

The State appreciates this opportunity to comment on the draft EA for the November 2016 Lease Sale. The best management of public lands will occur when the State and the BLM work cooperatively towards balanced development and preservation. The State's recommendations represent the balance, and the BLM should incorporate those recommendations. Please contact the State's Public Lands Policy Coordinating Office with any questions.

Sincerely,

Kathleen Clarke
Director

cc: Jenna Whitlock, Acting State Director
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Kent Hoffman, Deputy State Director Lands & Minerals
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