



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Colorado State Office
2850 Youngfield Street
Lakewood, Colorado 80215-7210
www.co.blm.gov



In Reply Refer To:
3120 (CO-922)

DEC 07 2016

CERTIFIED MAIL – Return Receipt Requested

Jeremy Nichols
Climate and Energy Program Director
WildEarth Guardians
2590 Walnut St.
Denver, CO 80202

Peter Hart
Staff Attorney
Wilderness Workshop
PO Box 1442
Carbondale, CO 81623

Juli Slivka, Planning Specialist
The Wilderness Society
1660 Wynkoop St., Suite 850
Denver, CO 80202

Laura King, Staff Attorney
Western Environmental Law Center
103 Reeder's Alley
Helena, MT 59601

Diana Dascalu-Joffe
Senior Attorney
Center for Biological Diversity
1536 Wynkoop St., Suite 421
Denver, CO 80202

Luke Schaefer
West Slope Advocacy Director
Conservation Colorado
529 Yampa Ave.
Craig, CO 81625

Matthew Sandler
Staff Attorney
Rocky Mountain Wild
1536 Wynkoop St., Suite 900
Denver, CO 80202

Dave Reed
Executive Director
Western Colorado Congress
134 N. 6th St.
Grand Junction, CO

Jimbo Buickerood
Lands and Forest Protection Program Manager
San Juan Citizens Alliance
1309 East Third Ave. #5
PO Box 2461
Durango, CO 81302

Katie Schaefer
Associate Attorney, Sierra Club
2101 Webster St., Suite 1300
Oakland, CA 94612

DECISION

DECEMBER 2016 OIL AND GAS COMPETITIVE LEASE SALE

PROTESTS OF 31 PARCELS DENIED

TWO PROTESTS DISMISSED

All Protested Parcels Will be Offered for Sale

The protest period for the December 8, 2016, Bureau of Land Management (BLM) Colorado Competitive Oil and Gas Lease Sale began October 13, 2016, and closed on November 14, 2016. This office received three timely protests from 1) WildEarth Guardians (WEG) arguing against including each of the 31 parcels; 2) Center for Biological Diversity (CBD) arguing against including each of the 31 parcels; and 3) The Wilderness Society (TWS), arguing against including 25 parcels from the Grand Junction Field Office (GJFO) and Colorado River Valley Field Office (CRVFO). The Wilderness Workshop, Rocky Mountain Wild, Western Environmental Law Center (WELC), Conservation Colorado, San Juan Citizens Alliance, and Western Colorado Congress (WCC) are signatories to the protest filed by TWS. The record shows that all groups provided written comment on documents previously posted for public review by BLM except WELC and WCC. If a protester did not submit written comments to the BLM, or otherwise demonstrate standing, BLM may deny the protest. Therefore, BLM dismisses WELC's and WCC's protests.

Many issues identified in the three protest letters were similar. All protest issues are addressed in this single response letter. Many issues were previously addressed in the response to public comment sections in the Determination of NEPA Adequacy (DNA) for the Grand Junction and Colorado River Valley Field Office parcels and the Environmental Assessment (EA) for the Royal Gorge Field Office (RGFO) parcels.

BACKGROUND

BLM received expressions of interest for the December 2016 lease sale until November 2, 2015. The 31 parcels proposed for sale include Federal fluid mineral estate managed by the GJFO, CRVFO, and RGFO and cover approximately 20,371 acres.

After preliminary adjudication of the nominated parcels by the BLM Colorado State Office, the parcels were reviewed by the GJFO, CRVFO, and RGFO. This interdisciplinary review included field visits to nominated parcels, and determination of conformance with current Resource Management Plans (RMP). The GJFO and CRVFO prepared a DNA for the parcels within their jurisdiction. An EA was prepared for the RGFO parcels.

Both the DNA and the EA were made available to the public for a 30-day public comment period, from May 12, 2016, through June 13, 2016. The lease sale notice was made available on October 13, 2016, initiating a 30-day protest period through November 14, 2016.

Table 1: 31 Lease Sale Parcels, Field Office, and Protesting Organization

Parcel			Field Office	Protester
COC77994 (7584)	COC77987 (7603)	COC77992 (7617)	GJFO	TWS ¹ , CBD ² , WEG
COC77995 (7585)	COC77988 (7604)			
COC77996 (7586)	COC78002 (7611)	COC77993 (7618)		
COC77997 (7587)	COC78003 (7612)			
COC78000 (7598)	COC78004 (7613)	COC78006 (7620)		
COC78001 (7599)	COC77990 (7614)			
COC78010 (7600)	COC77991 (7615)	COC78007 (7622)		
COC77989 (7602)	COC78005 (7616)	COC78008 (7625)		
		COC78009 (7626)		
		COC77981 (7629)		
COC77998 (7588)			GJFO/CRV FO	TWS, CBD, WEG
COC77999 (7917)			CRVFO	TWS, CBD, WEG
COC77980 (7607)	COC77985 (7590)	COC77984 (7593)	RGFO	CBD, WEG
COC77982 (7591)	COC77983 (7592)	COC77986 (7583)		

The decision framework for the RGFO is based on analysis in the EA, which considered three alternatives for the lease sale³. One alternative considered leases on all eight nominated parcels, totaling 2037.62 acres. The preferred alternative considered leasing 6 parcels, totaling 1,801.63 acres. The no action alternative considered no leasing in RGFO for the December sale.

The decision framework for the GJFO and CRVFO is based on recent analysis completed for RMP revisions, as documented in their respective RMP EISs⁴. The DNA documents the applicability of BLM's analysis of the impacts of oil and gas leasing in recent RMP EISs to 25

¹ The Wilderness Society (TWS) protest also includes Wilderness Workshop, Rocky Mountain Wild, Conservation Colorado, and the San Juan Citizens Alliance.

² The Center for Biological Diversity (CBD) protest also includes The Sierra Club

³ BLM Environmental Assessment for the Royal Gorge Field Office, December 2016 Competitive Oil and Gas Lease Sale, December 2016.

⁴ BLM Grand Junction Field Office Proposed Resource Management Plan and Final Environmental Impact Statement, BLM/CO/GI-15/008, March 2015; BLM Colorado River Valley Field Office Final Environmental Impact Statement and Proposed Resource Management Plan, BLM/CO/PL-16001, November 2014.

nominated parcels totaling 18,733.78 acres. Multiple alternatives were considered during the EIS for each RMP, and are discussed in more detail below in the response to Issue 2d.

ISSUES

This protest response identifies and addresses issues raised in the three protest letters. Issues have been combined and summarized where appropriate. Many protest issues were previously addressed in responses to public comments documented in Attachment E of the DNA (DNA, pp. 158-176) and in Appendix F of the RGFO EA (EA, pp. 88 – 93). BLM identified 43 unique comments addressed in DNA and 11 addressed in the RGFO EA. Many issues raised in comments on the DNA had been identified and addressed as part of the two RMP revision efforts.

BLM has provided responses to comments on the DNA and EA, as well as the RMP EISs. This response does not need to repeat, or restate answers that the BLM has already provided to the public.⁵ However, additional information is provided below as appropriate.

ISSUE 1: In appropriate use of DNA

Issue 1a: Analysis from the Resource Management Plan (RMP) decisions is too broad and unspecific to support lease sales.

Protesting Organizations: TWS, WEG, CBD

Response: BLM determined that the NEPA analysis used to support 2015 RMP revisions was adequate for offering 25 lease sale parcels on the CRVFO and the GJFO. The GJFO RMP EIS considered oil and gas leasing and its potential effects on resources. The GJFO RMP adopts specific goals, objectives, and allowable use plan components to support orderly and responsible leasing and mineral development⁶ (GJFO RMP, p.8, 10, 185). Similarly, the CRVFO RMP EIS considered oil and gas leasing and its potential effects on resources. The CRVFO RMP adopts specific goals, objectives, and management actions to support orderly and responsible mineral development⁷ (CRVFO RMP p. 111). Additional site analyses are typically considered at the Application for Permit to Drill (APD) stage.

⁵ The CBD protest letter incorporated all comments provided on the Environmental Assessment [Royal Gorge EA]. Responses to comments have already been addressed in Appendix F (RGFO EA, p. 88). CBD has not explained in its protest why it believes BLM's response to its comment did not resolve those issues; therefore, BLM will not re-address those issues in circular fashion (IBLA 2013-204; New Mexico Wilderness Alliance, et al, Sept 25, 2015).

⁶ GJ RMP goal: to provide opportunities for exploration and development of fluid mineral resources and making acres available for fluid mineral leasing; GJ RMP objective: planning for the proposed Shale Ridges and Canyons Master Leasing Plan (MLP); and GJ RMP allowable use: 183,000 acres in the MLP that are now opened to oil and gas leasing

⁷ CRVFO RMP goal: provide opportunities for leasing, exploration and development of fluid minerals (xx); CRVFO objective: orderly, economic, and environmentally sound development of oil and gas resources (xx); CRVFO management action: open oil and gas leasing and development of over 600,000 acres of federal mineral estate (xx).

Issue 1b: The BLM failed to perform site-specific analysis required for oil and gas leasing. The DNA does not consider potential impacts related to industrialization and fragmentation, water depletion, greenhouse gases, fracking, horizontal drilling, that may affect local water resources, sensitive fish species, public health, , seismic conditions, or the Colorado River watershed.

Protesting Organizations: TWS, WEG, CBD

Response: BLM considered potential impacts of leasing parcels and oil and gas development in the EIS prepared during the GJFO RMP revision process. The GJFO RMP includes the Shale Ridges and Canyons Master Leasing Plan (MLP). The MLP contains stipulations and Conditions of Approval (COA), developed based on BLM's NEPA analysis, that address additional mitigation may be needed where oil and gas development would present natural and cultural resources conflicts or would cause impacts to air quality, visual resources, watershed conditions, or slopes and soil (GJFO FEIS, p. 1-39). Specific MLP goals and objectives for soil resources, vegetation, special status species, greater sage-grouse, fish and wildlife, wild horses, cultural and paleontological resources, visual resources, recreation, and areas of critical environmental concern are described in detail (GJFO FEIS, p. 2-386 - 2-481).

The CRVFO RMP similarly contemplated oil and gas lease sales and the supporting EIS analyzed the reasonably foreseeable impacts of oil and gas leasing and development. The EIS states that “the RMP provides the necessary NEPA analysis for the issuance of leases for fluid minerals, such as oil and gas...” (CRVFO RMP EIS, p. 4-14). The evaluation of environmental consequences in the EIS differentiated the required analysis for lease sales and approval of APDs, stating “implementation level actions necessary to execute the land use plan-level decisions in this RMP would be subject to further environmental review, including NEPA...” (CRVFO RMP EIS, p. 4-14).

Resource mitigation practices at the lease sale stage are established through *stipulations*. Both the GJFO and CRVFO plans consider and apply specific protections through *No Surface Occupancy* (NSO), *Controlled Surface Use* (CSU), and *Timing Limitation* (TL) stipulations. Lease stipulations are developed through the planning NEPA process, and applied to specific parcels when they are considered for leasing. These stipulations are developed to protect water, human health, and other resources by, for example, prohibiting removal of vegetative cover, controlling runoff of sediment and chemicals into waterways, and restriction of activities to protect native fishes. However, many resource issues are addressed at the APD stage with more precision. When BLM undertakes the APD analysis, it has specific information about proposed infrastructure and activities, including type and location, that has been provided by the operator. Additional COAs are applied to APDs based on further site-specific NEPA analysis, as appropriate.

The *response to comments* section in the DNA provides discussion impacts to specific stream reaches around the leasing area that were analyzed as part of the RMP EISs. This including discussion of sediment, as well as arsenic and selenium (DNA, p. 159). Additional responses regarding EIS analysis for mudslides, underlying geology, seismic considerations, and topography can also be reviewed here. BLM responses to public concerns over potential impacts of hydraulic fracturing, air quality have also been addressed (DNA, p. 160).

Climate change and greenhouse gas emissions are discussed in more detail at Issue 4. Impacts to sensitive fish in the Upper Colorado River and the status of the 2008 Programmatic Biological Opinion, can be found at Issue 5.

As explained in the DNA, BLM has identified no new information or changed circumstances since preparation of the RMP EISs that would warrant preparation of an EA for the lease sale in order to more fully consider the reasonably foreseeable potential impacts of leasing. Likewise, the protesters have identified no additional information that warrants preparation of an EA in order to consider impacts that were not described and analyzed in the RMP EISs.

Issue 1c: IM 2010-117 (IM) does not allow BLM to use DNAs for lease sales and requires robust Master Leasing Plan (MLP)

Protesting Organizations: TWS

Response: Instruction Memorandum (IM) No. 2010-117 does not prohibit the use of DNAs for oil and gas lease sales, nor does it require the development of a MLP as a prerequisite for using a DNA. Rather, the IM affirms the use of a DNA, stating that an authorizing official confirms that “when a leasing action is adequately analyzed in an existing NEPA document...a Determination of NEPA Adequacy (DNA) may be used to document NEPA compliance for the leasing decision...” (IM 2010-117 p. 7).

Further, the IM does not compel the BLM to develop an MLP. The IM states “when leasing has been adequately analyzed in existing NEPA, such as that prepared during the MLP process, and is in conformance with the approved RMP...” (IM 2010-117 p. 7). The IM uses MLP NEPA only as one example of higher-level analysis that could be used.

Issue 1d: Stipulations do not align with sensitive plant species ranges. There are no stipulations for Colorado Natural Heritage Program Potential Conservation Areas.

Protesting Organizations: TWS, CBD

Response: BLM has responded to concerns over stipulations in the DNA comment responses (DNA, p. 170-172). Lease stipulations are applied during the leasing stage for parcels, per the terms of the stipulation. Lease sale parcels have a legal description that geographically constrains development rights of the lessee. Therefore, stipulations are often not applied to conform to a geographic range of plants, or other designated areas, but rather apply to the lease parcel. The response further identifies subsequent opportunities for resource protection by explaining that “[i]t is not only the lease stipulations, but also the general and site-specific conditions of approval at the project NEPA and APD, or right of way approval stages that ensure resource protection.” (DNA, p. 170).

Additional discussion of stipulations and resource protection can be found throughout Chapter 6 of the GJFO RMP EIS. The response below describes the layered opportunities for resource protection provided by multiple levels of review and approval (GJFO RMP EIS, p. 6-30):

The BLM agrees that the Interior Board of Land Appeals has made clear that, when making a decision regarding discrete surface-disturbing oil and gas development activities following site-specific environmental review, the BLM has the authority to

impose reasonable protective measures not otherwise provided for in lease stipulations, to minimize adverse impacts on other resource values. See 30 USC 226(g); 43 CFR 3101.1-2; Yates Petroleum Corp. ,176 IBL A 144 (2008); and National Wildlife Federation, 169 IBLA 146, 164 (2006).

Lease stipulations are applied to lease parcels and subsequent mitigation measures are applied the APD stage based on further NEPA analysis when BLM has site-specific information about proposed lease development.

Issue 1e: The BLM failed to analyze direct, indirect, and cumulative effects as well as similar and connected actions.

Protesting Organizations: WEG, TWS

Response: Resource-specific consideration of direct, indirect, and cumulative effects of oil and gas leasing, as well as similar and connected actions, can be found throughout supporting documentation for all 31 lease parcels. Analysis of the effects of oil and gas leasing in the GJFO and CRVFO is provided in the RMP EISs.

For the GJFO RMP EIS, first refer to Chapter 6, Response to Comments, which describes the analysis around this issue during development of the RMP (GJFO RMP EIS, p. 6-176 – 6-262). More detailed analysis can be found in Chapter 4, Environmental Consequences, where effects were analyzed for each alternative. This includes disclosure of assumptions and incomplete information, as well as an explanation of the methodologies used in this process – demonstrating the agency’s commitment to a hard look, as required by NEPA. This chapter presents a robust discussion of indirect, direct, and cumulative effects arranged by topic or resource area. The CRVFO RMP EIS is arranged similarly, and analyzes effects for each alternative by resource area. Both EISs used up-to-date information, and therefore support the DNA used for the lease sale for the relevant parcels. The protesters have not identified additional information or new circumstances that would warrant preparation of an EA in order to consider impacts that were not described and analyzed in the RMP EISs.

The RGFO EA presents and analyzes direct, indirect, and cumulative effects throughout Chapter 3, section 3.4 (RGFO EA, p. 13-64).⁸

ISSUE 2: BLM violated NEPA

Issue 2a: The BLM failed to take a “hard-look” at the impacts of the proposed action

Protesting Organizations: CBD, TWS

The agency’s conclusion to lease the 31 parcels is supported by the analysis contained in the CRVFO and GJFO RMP EISs, and the RGFO EA. The decision to lease six parcels is within the range of alternatives considered in the RGFO EA. The decision to lease 25 nominated parcels is within the range of alternatives considered in the EISs for the RMPs.

⁸ Royal Gorge EA discusses direct, indirect and cumulative effects for specific resources in Chapter 3. Refer to air quality (p. 23); greenhouse gases and climate change (p. 34); soils (p. 41); invasive plants (p. 42); migratory birds (p. 44); special status species (p. 49); vegetation (p. 50); wetlands (p. 51); fish (p. 51); cultural resources (p. 55), etc.

The RGFO EA considered three alternatives analyzed in detail. The reasonably foreseeable environmental consequences are well documented for all impacted resources (RGFO EA, p. 11-63). In specific resource sections, BLM described its analytical methods and disclosed its assumptions. For example, pollutant emissions are unknown at this time, but are estimated under different potential development scenarios (RGFO EA, p. 24, Table 3.6).

The GJFO RMP EIS considered four alternatives in detail. Similarly, the CRVFO RMP EIS considered four alternatives in detail. Both EISs document BLM's methodologies and assumptions. The analysis in each EIS considers direct, indirect, and cumulative effects of the planning area alternatives. BLM identified the scientific literature that it referenced to support its analysis. As noted above, the protesters have not identified additional information or new circumstances that would warrant preparation of an EA in order to consider impacts that were not described and analyzed in the RMP EISs.

Issue 2b: The BLM inappropriately delays determination of site specific effects at time of APD. APD stage may be too late to prevent significant impacts.

Protesting Organization: TWS

Response: Oil and gas development is a foreseeable indirect effect of leasing parcels for sale. BLM has analyzed the impacts of development that are reasonably foreseeable at the leasing stage in the RMP EISs and the RGFO EA. However, some impacts are not reasonably foreseeable until BLM has site-specific information about proposed development, such as the type of equipment needed or the precise location of proposed infrastructure above and below ground. For that reason, BLM conducts further analysis at the APD stage. BLM retains discretion under 43 CFR 3101.1-2 to require site-specific mitigation of impacts to resources as a COA for an APD. Those measures may be in addition to the stipulations that are attached to the parcels as described in the sale notice.⁹ For example, a lease parcel may be subject to a stipulation that dictates the applicable standard for protection of visual resources, but the required paint color for equipment may not be determined until the APD stage, when the vegetation in the immediate vicinity of the proposed development site has been characterized.

Issue 2c: Environmental Assessment for Royal Gorge lacks site-specific analysis; does not consider environmental effects including cumulative impacts.

Protesting Organization: CBD, WEG

Response: The RGFO EA analyzes specific impacts based on alternative, as well as direct, indirect, and cumulative effects. Past, present and reasonably foreseeable actions are considered for resource areas. Additionally, analysis from the RMP is formally incorporated by reference (RGFO EA, p. 11, 12), providing additional underpinning for BLM's cumulative effects analysis. Specific resource area cumulative impacts are described for air resources (RGFO EA, p. 22); greenhouse gases and climate change (RGFO EA, p. 36); minerals and fluids (RGFO EA, p. 42); and migratory birds (RGFO EA, p. 45), as a few examples.

⁹ The Mineral Leasing Act of 1920, as amended 30 U.S.C. 226(g): "No permit to drill on an oil and gas lease issued under this chapter may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area." See also Onshore Oil and Gas Order No. 1 parts IV and VII. See also 43 CFR 3162.3-1(c) and 3162.3-3.

The discussion above in Issue 2b describes the layered approach of site-specific analysis and mitigation, and why certain mitigation measures are better applied at the APD approval stage through COAs.

Issue 2d: The BLM should have analyzed alternatives of no new leasing, no fracking, or other unconventional well stimulation methods

Protesting Organization: TWS, CBD

Response: The RGFO EA considered a No Action Alternative (RGFO EA, p. 9). Under this alternative, BLM would defer all eight nominated lease parcels under consideration. Analysis of this alternative therefore describe the impacts of not leasing the parcels under review. It also considered an alternative to lease all eight of the proposed parcels. The preferred alternative offers six parcels for lease, while deferring two. The alternatives considered in detail provided the decision-maker with an appropriate range to consider.

The GJFO and CRVFO relied on adequate NEPA analysis from recent RMP EISs. The 2015 GJFO RMP EIS considered a range of alternatives, including one that would have prohibited all new oil and gas leasing in the planning area (GJ RMP ROD, p. 4). Alternatives considered in detail included 1) a No Action Alternative, which contemplated continued management under the existing RMP at the time; 2) Alternative C, which emphasized resource protection and non-consumptive use; 3) Alternative D, which emphasized resource use, including resource extraction (GJFO RMP ROD, p. 6 – 7). Alternative B was the preferred alternative, which provided a balance between resource protection and development.

The 2015 CRV RMP EIS also considered a range of alternatives, including implementing “exclusive use,” or protection (CRVFO RMP ROD, p. 4). Alternatives considered in detail included 1), the No Action Alternative, which described and analyzed a continuation of current management direction; 2) Alternative C, which emphasized restoration and habit protection; 3) Alternative D, which explored options to prioritize social and economic outcomes (CRVFO ROD, p. 4-6). Alternative B was the preferred alternative, which provided a balance between resource protection and development. Both RMP EISs considered the reasonably foreseeable impacts of oil and gas leasing and development, and those analyses apply to the parcels proposed for leasing.

Issue 2e: The BLM should have prepared an EA or EIS

Protesting Organizations: TWS, WEG

Response: There is no requirement in law or policy that BLM prepare a particular level of NEPA analysis for all lease sales. The RGFO prepared an Environmental Assessment and identified no significant impacts associated with leasing six parcels. Therefore, NEPA does not require an EIS for the leasing decision. BLM prepared EISs for the recent RMPs for the planning areas that include the 25 parcels proposed for leasing in the GJFO and the CRVFO. BLM reviewed the adequacy of the EIS NEPA to support the leasing decision, and found it to be appropriate, as explained in the DNA.

Issue 2f: The BLM failed to respond to public comments

Protesting Organization: TWS

Response: The BLM provided scoping and a 30-day public comment period for all lease parcels. BLM considered and responded to public comments, as documented in both the RGFO EA (p. 88 – 93) and the CRVFO and GJFO DNA (p. 158 – 176). The DNA reviews the analysis prepared for recent RMP decisions, which also considered substantial public comment. The GJFO RMP and the CRVFO RMP public processes were consistent with law and policy and included significant extensions to the public comment periods for the analysis and proposed RMP (CRVFO ROD, p. 16; GJFO ROD, p. 20). ¹⁰Comment periods for the CRVFO and GJFO EISs and draft RMPs were extended from 90 days to 166 days and 151 days, respectively. BLM considered all comments received from the public during those processes.

ISSUE 3: BLM ignored relevant science and Policy

Issue 3a: BLM failed to consider new information, science, and agreements. These include Secretarial Order (EO) 3226 and 3289; EO 13514 and 13693; information from EPA, NOAA, IPCC; the Paris Agreement; and statements from the President of the United States

Protesting Organization: TWS

Response: The orderly development of federal oil and gas resources is consistent with law and policy. Secretarial Order 3226 called for evaluation of climate change impacts in management planning. Secretarial Order 3289 also called on DOI agencies to consider and analyze potential climate change impacts. All NEPA documents prepared or relied upon for the lease sale decision evaluated potential impacts from oil and gas leasing and development related to greenhouse gas emissions

Executive Order 13514 has been revoked (March 19, 2015) and replaced with EO 13693, which established goals and targets for agencies for reducing consumption and enhancing sustainability of operations.

The best available scientific information was utilized by resource specialists for these analyses. Additional information submitted through public comment was also taken into consideration.¹¹

ISSUE 4: BLM failed to consider potential climate impacts from new leases

Issue 4a: BLM should quantify and analyze emissions from lease sale. BLM should do a full accounting of greenhouse gas emissions at the RMP stage and evaluate the direct, indirect, and cumulative impacts of emissions.

¹⁰ Chapter 6, Response to Public Comments, for the Grand Junction Field Office RMP can be found at: https://www.blm.gov/style/medialib/blm/co/field_offices/grand_junction_field/Proposed_RMP.Par.26577.File.dat/Chapter_6_Response_to_Comment_GJFO_PRMP%20Updated%20Electronic.pdf

Appendix V, Response to Public Comments, for the Colorado River Valley Field Office RMP can be found at: https://www.blm.gov/style/medialib/blm/co/field_offices/crvfo/crvfo_proposed_rmp.Par.36298.File.dat/38%20Appendix%20V%20Parts%201%20to%203.pdf

¹¹ The Wilderness Society submitted approximately 3,000 pages of attachments and exhibits with their protest letter. The agency finds this information more useful during the planning stages, than at the time of protest. Nevertheless, it was reviewed and considered here as appropriate.

Protesting Organization: TWS, WEG, CBD

Response: BLM is not required to quantify greenhouse gas (GHG) emissions from a lease sale in order to perform an appropriate analysis for its decision.

The RGFO EA considered GHG emissions and climate change and explained BLM's assumptions and methodologies (RGFO EA p. 35-38). The BLM assumed a 25-year well production life and multiplied by emission rates for typical wells. After estimating potential emissions from well construction, the GHG total estimate was 9,459,794 metric tons (mT) of carbon dioxide equivalent (CO₂e). BLM framed those potential emissions in the context and intensity of state emissions, as well as from an EPA modeled power plant (RGFO EA p. 37). BLM provided a qualitative analysis of potential climate change impacts for the planning area.¹²

The CRVFO and GJFO RMP EISs examined GHGs and climate impacts to the planning area, by alternative. Chapter 4 of the CRVFO RMP EIS described the environmental consequences of GHGs for each alternative (CRVFO RMP EIS, p. 4-3). The *Climate Change* section described the current state of the science and policy, and analyzed effects for each alternative (CRVFO RMP EIS, p. 4-46 – 4-58). This section contains tables that are particularly helpful to understand direct, indirect, and cumulative effects of emissions for each alternative.¹³

Similar analysis appears in the GJFO RMP EIS. Table 4-12 displays GHG estimates, including methane, for all four action alternatives (GJFO RMP EIS, p. 4-43). This section explains the CARMMS model, including all assumptions specific to the Grand Junction RMP planning area (GJFO RMP EIS, p. 4-45).

The RGFO EA estimated emissions for this particular lease sale and provided qualitative discussion of climate change impacts in the region. The GJFO and CRVFO appropriately described qualitatively and quantitatively both the impacts of oil and gas development to GHG emissions, as well as climate change impacts to the planning area. BLM's methodology of quantifying the estimated GHG emissions from a proposed action, placing them in a regional or global context, and providing qualitative analysis of climate change impacts is consistent with the approach that has been approved by the Interior Board of Land Appeals in Powder River Basin Resource Council, 180 IBLA 119, 134-35 (2010) and Bristlecone Alliance, 179 IBLA 51, 57 (2010), and the U.S. Court of Appeals for the D.C. Circuit in *WildEarth Guardians v. Jewell*, 738 F.3d 298, 309-310 (D.C. Cir. 2013).

Issue 4b: BLM ignored final CEQ guidance on climate change and NEPA

Protesting Organization: TWS, WEG

¹² Higher temps, etc.

¹³ Table 4.2.2-2 quantifies annual oil and gas GHGs, including methane (CRVFO RMP EIS, p. 4-49); Table 4.2.2-2 compares Alternative A GHG emissions to CO, UT, WY State inventories (CRVFO RMP EIS, p. 4-50). Similar tables exist for Alternatives C and D.

Response: The Council on Environmental Quality (CEQ) finalized guidance on greenhouse gas and climate change on August 1, 2016. The guidance discusses recommendations for both the consideration of greenhouse gas emissions associated with a proposed action, as well as consideration of climate change impacts on the proposed action. It suggests that federal “agencies should apply this guidance to all new proposed agency actions when a NEPA review is initiated” (CEQ, p. 33). The NEPA review for these parcels predated the final guidance; however, BLM’s analytical method, discussed above in Issue 4a, was consistent with EPA’s recommendations, as well as those in the preceding draft guidance.

The RGFO EA identifies climate change as a key issue (RGFO EA, p. 5) and discusses it in more detail under the Air Quality section (RGFO EA, p. 19). Greenhouse gas emissions are also estimated and disclosed (RGFO EA, p. 36). Impacts of climate change are described for the area, in terms of changing temperature, snowmelt timing, droughts, and impacts to livestock and rangelands. Impacts to wildlife are also considered (EA, p. 37).

The DNA provides discussion of how and where climate change was addressed in the RMP EIS. Both EISs included “a qualitative discussion on the correlation between oil and gas operations, GHG emission, and climate change in Section 4.3.2 of the GFFO RMP EIS and Section 4.2.1 of the CRVFO RMP EIS” (DNA, p. 173). The response notes that GHG emissions were quantitatively estimated in the RMP EISs and impacts were discussed qualitatively. Thus, the analysis that supports the lease sale is consistent with CEQ recommendations. In its guidance, CEQ recognizes that “the ‘rule of reason’ inherent in NEPA and the CEQ Regulations allows agencies to determine, based on their expertise and experience, how to consider an environmental effect and prepare an analysis based on the available information.” (CEQ, p. 5).

Issue 4c: RMP analyses are inappropriate and did not consider methane pollution.

Protesting Organization: TWS

Response: The Colorado Air Resources Management Modeling Study (CARMMS) considers the impacts of methane emissions from future federal and non-federal energy development in Colorado. CARMMS was used to support both the EA and the RMP EISs (GJFO EIS Appendix G, p. 9, EA, p. 89). Methane is also addressed in the RMP EIS (GJFO EIS Appendix G, p. 15), as well as throughout the EA (RGFO EA, p. 18 – 19, 24, 34). As discussed above, all of these NEPA documents provided qualitative discussion of climate change impacts.

The EISs and the EA appropriately considered greenhouse gas emissions, including methane emissions, in the context of climate change.

Issue 4d: Analysis should have included estimated costs of emissions to society, including end-uses of fossil fuel and Social Cost of Carbon (SCC).

Protesting Organization: TWS, WEG, CBD

Response: A SCC analysis is not required to support an oil and gas lease sale. The BLM has addressed the rationale for not preparing a SCC analysis in detail in the DNA response to comments (DNA p. 165 – 166) and in the RGFO EA response to comments (RGFO EA, p. 90-91).

Issue 4e: BLM should attach lease notices to preserve ability to impose mitigation or offsets at APD stage

Protesting Organization: TWS

Response: Additional site-specific mitigation measures, in addition to lease stipulations, are attached at the APD stage. The BLM retains the authority to add COAs to protect resources during the APD analysis; a lease notice is not required.

Issue 4f: Climate change should be considered part of the environmental baseline

Protesting Organization: TWS

Response: The BLM considered climate as part of the affected environment, or existing condition. The RGFO EA describes existing specific temperature ranges and annual precipitation in detail for the RGFO area. It also discusses climate change impacts being more apparent at one end of the planning area, stating “At the western edge of the plains and near the foothills of the mountains, there are a number of significant changes in climate” (RGFO EA, p. 15). Similarly, climate change is considered as part of the existing condition in the EISs that support the GJ RMP and the CRV RMP (see discussion at Issue 4b, including references to Section 4 in the EISs).

ISSUE 5: BLM improperly relied on 2008 programmatic biological opinion

Issue 5a: The PBO does not take into account water depletion effects of horizontal drilling, mercury and selenium, climate change and long-term drought, increases in demand, and negative impacts on the humpback chub and Colorado pikeminnow.

Protesting Organization: CBD

The GJ RMP and CRV RMP are supported by the 2008 PBO, which established a depletion threshold of 4,046 acre for the Upper Colorado River Basin. Annual depletion amounts have never crossed this threshold and remain well below this amount. Thus, the 2008 PBO is still suitable to support the decision to lease parcels in the Upper Colorado River Basin area.

The BLM recognizes the need to consider new information and re-evaluate changing conditions on the Upper Colorado River, and is preparing an updated Programmatic Biological Assessment (PBA) that may consider information about new drilling techniques and re-examine the extent and location of fluid mineral reserves by river basin. The PBA will also evaluate how climate change and contaminants (specifically selenium and mercury) are affected by water depletions associated with BLM’s fluid mineral program. In addition, the US Fish and Wildlife Service (FWS) is completing the 2016 Sufficient Progress review, which will inform the scope of issues as we move forward with the PBA.

The humpback chub and Colorado pikeminnow are addressed in the EIS and the DNA response to public comments (DNA, p. 169 - 171). The DNA response agrees that deep horizontal wells use more water per well, however they typically have less overall impact because a single

horizontal well replaces multiple vertical wells. The 2014 Sufficient Progress Memo¹⁴ (Memo) from FWS indicates the Colorado Pikeminnow population faces threats from nonnative fish species, and contemplates that this is more significant than was previously recognized (FWS Memo, p. 10). The FWS raises similar predation concerns for the humpback chub (FWS Memo, p. 14). It also recognizes recent research indicating rising concentrations of mercury in muscle tissue, which can impair reproduction success. It concludes that while mercury may influence recovery, it is beyond the scope of the recovery program since it is a global pollutant. The forthcoming 2016 Sufficient Progress Memo will provide an update on these species and inform the PBA.

ISSUE 6: BLM violated the endangered species act

Issue 6a: BLM failed to consult with FWS for effects to listed species; including DeBeque phacelia and Parachute Beardtounge

Protesting Organization: CBD

Response: The proposed lease sale includes a stipulation for NSO and no surface disturbance within 200 meters of De Beque Phacelia habitat (DNA, p. 134). The DNA is supported by the 2015 GJ RMP and the 2015 CRV RMP. Both plan revision efforts included FWS consultation and concurrence. FWS consultation is described in both RODs for the RMPs (CRVFO ROD, p. 21; GJFO ROD, p. 24).

ISSUE 7: Big game

Issue 7a: Stipulations for protection of big game habitat and migration routes are inadequate for parcels COC78008 and COC77990

Protesting Organization: CBD

Response: As explained in the Royal Gorge EA Response to Public Comments, the EA analyzed potential impacts to big game and big game habitat loss, primarily from indirect effects from future, but connected, federal actions. The BLM explained that the APD stage is a more appropriate stage to look at site-specific impacts on habitat and migration (RGFO EA, p. 88). When BLM reviews an APD, it can analyze proposed infrastructure and the application of specific mitigation measures as conditions of approval.

CONCLUSION

After careful review, I have determined that all 31 parcels for the December 8, 2016 lease sale will be offered. All protests related to these parcels have been evaluated and dismissed for the reasons above.

¹⁴ <http://www.coloradoriverrecovery.org/documents-publications/section-7-consultation/sufficientprogress/2014SufficientProgressMemo.pdf>

APPEAL INFORMATION

This Decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 C.F.R. 4 and Form 1842-1

Standards for Obtaining a Stay 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 the following standards:

- (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 the public interest favors granting the stay



Lonny R. Bagley
Deputy State Director
Energy, Lands, and Minerals

Enclosure

1-Form 1842-1, "Information on Taking Appeals to the Board of Land Appeals" (2pp)

cc: Field Manager, Royal George Field Office
Field Manager, Colorado River Field Office
Field Manager, Grand Junction

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
- AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

-
- 1. NOTICE OF APPEAL**..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
-
- 2. WHERE TO FILE**
- NOTICE OF APPEAL..... Bureau of Land Management, Colorado State Office
Division of Energy, Lands, and Minerals (CO-920)
2850 Younfield Street, Lakewood, Colorado 80215
- WITH COPY TO SOLICITOR..... U.S. Department of the Interior, Regional Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151, Lakewood, Colorado 80215
-
- 3. STATEMENT OF REASONS**..... Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).
- WITH COPY TO SOLICITOR..... U.S. Department of the Interior, Regional Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151, Lakewood, Colorado 80215
-
- 4. ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
-
- 5. PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
-
- 6. REQUEST FOR STAY**..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.
- Standards for Obtaining a Stay.** Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (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 the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office --- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)