



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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In Reply Refer to:
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2018Q1 Protests

MAR 19 2018

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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DECISION

PROTESTS DISMISSED OR DENIED

The Bureau of Land Management (BLM), Wyoming State Office (WSO), has received four timely protests to oil and gas lease sale parcels expected to be offered at its First Quarter 2018 competitive oil and gas lease sale, planned to be held March 21-22, 2018 (2018Q1 Sale). The four protests were received from the following parties: (1) WildEarth Guardians (WEG); (2) the National Parks Conservation Association and Powder River Basin Resource Council (NPCA/PRBRC); (3) the Center for Biological Diversity, Upper Green River Network, and Western Watersheds Project (CBD et al.); and (4) The Wilderness Society, Wyoming Outdoor Council, and the National Audubon Society (TWS et al.).

Background

The BLM received nominations for the 2018Q1 Sale until March 24, 2017. The 2018Q1 Sale includes Federal fluid mineral estate located in the BLM Wyoming's High Plains District (HPD) and Wind River/Bighorn Basin District (WRBBD). After preliminary adjudication of the nominated parcels by the

WSO, the parcels were reviewed by the BLM's field and district offices, including interdisciplinary review, field visits to nominated parcels (where appropriate), review of conformance with the Resource Management Plan (RMP) decisions for each planning area, and preparation of an Environmental Assessment (EA) documenting National Environmental Policy Act (NEPA) compliance.¹

During the BLM's review of the 2018Q1 parcels, the WSO screened each of the parcels, confirmed plan conformance,² and coordinated with the State of Wyoming Governor's Office and Game and Fish Department, particularly to ensure coordination regarding the recent Greater sage-grouse RMP revisions and amendments.

Conservation of the Greater sage-grouse (*Centrocercus urophasianus*) and their habitats has been a critical contemporary land-management issue for the BLM, the public, and the BLM's partner agencies across the West.

Sage-grouse currently occupy approximately about one-half of their historic distribution. On October 2, 2015, the U.S. Fish and Wildlife Service (FWS) published its finding that listing of sage-grouse under the Endangered Species Act of 1973 was not warranted. The FWS's finding was based, in part, on the conservation strategies developed in Wyoming and other states which led the FWS to conclude that "the primary threats to greater sage-grouse have been ameliorated by conservation efforts implemented by Federal, State, and private landowners." (80 FR 59858, dated October 2, 2015). As the FWS also acknowledged (*id.* at page 59882):

The key component of the Wyoming Plan is the application of State regulatory measures associated with the Wyoming Plan on all lands in Wyoming... The Federal Plans in the State incorporate the Wyoming strategy,^[3] thereby ensuring implementation of the strategy on Federal land surfaces and subsurface regardless of the need for a State permit (see further discussion below). The completion of the Federal plans also facilitates greater coordination between the State and Federal agencies in implementing and monitoring the Wyoming Plan. This addition to the Wyoming Plan further increases the value of this effort in conserving sage-grouse by covering all lands in the State with a single regulatory framework to reduce affects to sage-grouse in the most important habitats in the State. Therefore, the strategy conserves sage-grouse through an effective regulatory mechanism for conservation.

For BLM-administered public lands in Wyoming, the BLM adopted the State's sage-grouse conservation strategy by revising and amending its RMPs. The State of Wyoming's Core Area Protection strategy for sage-grouse "is based on the identification of important habitat areas for Greater sage-grouse and a set of actions that when taken are intended to ensure the long-term survival of Greater sage-grouse populations in Wyoming." (State of Wyoming Governor's Executive Order 2015-4, at Attachment A, page 5). The important habitat areas referred to in Executive Order (EO) 2015-4 are the Core Population Areas (CPAs) designed by the State of Wyoming's Sage-Grouse Implementation Team (SGIT). These CPAs

¹ Links to the NEPA documents are available at:

<https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/wyoming>

² See BLM's Land Use Planning Handbook at page 42: "After the RMP is approved, any authorizations and management actions approved... must be specifically provided for in the RMP or be consistent with the terms, conditions, and decisions in the approved RMP." See also 43 CFR 1610.5-3.

³ On August 1, 2008, the Wyoming Governor issued Executive Order 2008-2, establishing a "core population area strategy" for sage-grouse in Wyoming. This Executive Order has since been re-issued (June 2, 2011 as EO 2011-5 and, most recently, on July 29, 2015 as EO 2015-4). The BLM and State of Wyoming use identical core population area boundaries; see https://eplanning.blm.gov/epl-front-office/projects/lup/36597/130805/159604/RMP_Maint_2017-001_Sage-Grouse_Core_V4.pdf

encompass approximately 83% of the sage-grouse population within the State (see 80 FR 59882) as identified by peak male lek attendance, and were mapped by the SGIT to:⁴

...assimilate[] the highest sage-grouse density areas identified [in published conservation studies] as they were identified as the most productive habitats for sage-grouse in Wyoming. In addition, the mapping of Core Areas considered current and potential energy development and encapsulated areas historically low in production [citation omitted]...

Recent scientific publications⁵ indicate that though strategies such as this “may be successful at limiting sage-grouse range-wide population declines, if implemented, [] the conservation measures are not expected to reverse the declines, particularly where active oil and gas operations are present.” However, these publications also “support the conclusion that overall the Wyoming Governor’s Executive Order is helping safeguard critical sage-grouse habitats at the State-wide scale.”

The 2018Q1 Sale EAs (High Plains District EA No. DOI-BLM-WY-P000-2017-0002-EA, Wind River/Bighorn Basin District EA No. DOI-BLM-WY-R000-2017-0002-EA), along with draft, unsigned Findings of No Significant Impact (FONSIs) were released on July 24, 2017 for a 30-day public review period, ending August 23, 2017. The EAs tiered to the existing field office/resource area RMPs and their respective Environmental Impact Statements (EISs), in accordance with 40 CFR 1502.20:

Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review... the subsequent ...environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action.

The Wilderness Society, the Wyoming Outdoor Council, WEG, the NPCA, and PRBRC submitted comments to the BLM on one or both of the EAs prepared by the BLM (see Attachment 2 to the WRBBD’s EA; see Appendix F of the HPD’s EA).⁶

The BLM described its purpose and need for the HPD’s 2018Q1 Sale EA, (at pages 5-6):

The purpose of the competitive oil and gas lease sale is to meet the growing energy demands of the United States public through the sale and issuance of oil and gas leases. Continued sale and issuance of leases is necessary to maintain economical production of oil and gas reserves owned by the United States.

The need for the competitive oil and gas lease sale is established by the FOOGLRA to respond to EOIs, the FLPMA and the MLA. The BLM’s responsibility under the MLA is to promote the development of oil and gas on the public domain, and to ensure that deposits of oil and gas owned by the United States are subject to disposition in the form and manner provided by the MLA under the rules and regulations prescribed by the Secretary of the Interior, where applicable, through the land use planning process.

Decision to be Made: *The BLM will decide whether or not to offer and lease the nominated*

⁴ Gamon, R.S., and Beck, J.L., 2017, Effectiveness of Wyoming’s sage-grouse core areas: Influences on energy development and male lek attendance: Environmental Management, v. 59, no. 2, p. 189-203.

⁵ Hanser, et al., 2018, Greater sage-grouse science (2015–17)—Synthesis and potential management implications: U.S. Geological Survey Open-File Report 2018–1017, 46 p., <https://doi.org/10.3133/ofr20181017> at pages 2, 14.

⁶ The HPD and WRBBD each prepared a single EA for the parcels in their respective jurisdictions. In this, and the remainder of our response, our citations from the EAs refer to “Version 2” of the EAs posted on the BLM’s website, unless otherwise noted.

parcels of the HPD portion at the First Quarter 2018 Competitive Oil and Gas Lease Sale and if so, under what terms and conditions.

The BLM described its purpose and need for the WRBBD's 2018Q1 Sale EA, (at page 1-6):

It is the policy of the BLM as derived from various laws, including the Mineral Leasing Act of 1920, as amended and the Federal Land Policy and Management Act of 1976 (FLPMA) to make mineral resources available for disposal and to encourage development of mineral resources to meet national, regional, and local needs. Continued sale and issuance of lease parcels would allow for continued production of oil and gas from public lands and reserves.

The need is established by the Federal Onshore Oil & Gas Leasing Reform Act of 1987 (FOOGLRA), the Federal Land Policy Management Act, and Mineral Leasing Act of 1920, as amended, to respond to Expressions of Interest.

The 2018Q1 Sale EAs each considered two alternatives in detail: a proposed action and a no action alternative.

The remainder of our response will address the four protests and their arguments. The BLM has reviewed the arguments in their entirety; the substantive arguments to which we respond are numbered and provided in bold with BLM responses following.

Wild Earth Guardians (WEG)

In WEG's protest to all 170 parcels listed in the Sale Notice,⁷ it argues that the BLM failed to "adequately analyze and assess the general cumulative impacts and direct, indirect, and cumulative climate impacts" that could result from leasing the parcels in the 2018Q1 Sale (WEG Protest at page 7).

We note that WEG continues to submit many similar or identical arguments to those submitted by WEG for previous lease sales, including the BLM-Wyoming's August 2015 Competitive Oil and Gas Lease Sale (Aug 2015 Sale) where many of WEG's recurring arguments were addressed fully by the WSO.⁸ WSO decisions addressing other recent lease sale protests submitted by WEG have also addressed many of WEG's recurring or substantively identical arguments (including the Feb 2016 Sale, Aug 2016 Sale, Feb 2017 Sale, and the Third-Quarter 2017 Sale), to which we refer WEG for many of the arguments that they have raised again in this protest.

With respect to the 2018Q1 sale, WEG also raised a number of slightly new positions or arguments, to which we will respond, below.

1. **"The BLM's purpose for lease sale as provided in the High Plains District EA is too narrow."** (WEG Protest at page 8).

First, we note that WEG failed to raise this concern when they submitted their 506-page comment letter to the High Plains District (HPD) after reviewing the draft (v.1) of the EA.

Regardless of WEG's failure to raise this concern in their comments on the EA, we disagree with WEG.

⁷ This Sale Notice, ("Notice of Competitive Oil and Gas Lease Sale – March 21-22, 2018") was posted on November 29, 2017. Available at: https://eplanning.blm.gov/epl-front-office/projects/nepa/85072/125831/153379/Sale_Notice.pdf.

⁸ See the WSO's Aug 2015 Protest Decision, available at: <http://www.blm.gov/style/medialib/blm/wy/programs/energy/og/leasing/protests/2015/aug.Par.26655.File.dat/ProtestDecision.pdf>

The Council on Environmental Quality's regulations at 40 CFR 1508.9(b) state that EAs:

...shall include brief discussions of the need for the proposal.

The BLM's NEPA Handbook⁹ also explains (at page 35):

We recommend that the purpose and need statement be brief, unambiguous, and as specific as possible. Although the purpose and need statement cannot be arbitrarily narrow, you have considerable flexibility in defining the purpose and need for action. To the extent possible, construct the purpose and need statement to conform to existing decisions, policies, regulation, or law. The purpose and need for the action is usually related to achieving goals and objectives of the LUP; reflect this in your purpose and need statement.

In the HPD's EA, we find their purpose and need statement complies with BLM policy. In addition, the statement makes it clear that, by responding to lease sale nominations for lands identified as open to leasing under the approved RMP, the BLM will offer lands for lease "under the rules and regulations prescribed by the Secretary of the Interior."

We disagree with WEG's contention that this purpose and need "forecloses any serious consideration by the BLM of a 'no action alternative.'" (WEG Protest at page 8).

It is possible the HPD's EA was not even required to evaluate a no action alternative. See 43 CFR 46.310(b):

When the Responsible Official determines that there are no unresolved conflicts about the proposed action with respect to alternative uses of available resources, the environmental assessment need only consider the proposed action and does not need to consider additional alternatives, including the no action alternative...

In the HPD's EA, most unresolved conflicts were eliminated by deleting certain parcels with potential conflicts before even conducting an analysis (these parcels were not considered for leasing under any action alternative). See HPD's EA at pages 2-4. Then, appropriate lease stipulations were added to address any remaining conflicts under the proposed action (see HPD's EA at page 8: "stipulations are attached to mitigate known environmental or resource conflicts that may occur on a given lease parcel...").

To the extent that the EA evaluated a no action alternative, we disagree that the purpose and need statement is "too narrow" and forecloses consideration of the no action alternative by the BLM authorized officer. The HPD's purpose and need statement reflects the policy of the DOI and the BLM to manage for multiple use on public lands including the development of energy resources for the public's use as set forth in the Mineral Leasing Act of 1920¹⁰, and as described in the applicable RMPs. Furthermore, in the immediately-preceding sale that occurred in the HPD, the BLM selected elements of the no action alternative when using an identical purpose and need statement (see the WSO's Finding of No Significant Impact/Decision Record for the Third Quarter 2018 Sale), demonstrating that the BLM seriously considers the no action alternative when reaching its final decision.

For these reasons, we deny this portion of WEG's protest.

⁹ National Environmental Policy Act Handbook (H-1790-1), dated January 30, 2008.

¹⁰ 30 U.S.C. § 181 et seq.

2. “The BLM improperly defers its site-specific NEPA analyses to the Application Permit to Drill stage.” (WEG Protest at page 8).

In this argument, WEG contends that the BLM generally “must estimate the impacts drilling these wells [on the proposed leases] at the lease sale stage.” (WEG Protest at page 9). The BLM has addressed this argument from WEG previously, particularly with regard to potential Greenhouse Gas (GHG) emissions from site-specific operations if lands are leased (see WSO protest decisions from the Aug 2015 Sale, Feb 2016 Sale, Aug 2016 Sale, Feb 2017 Sale, and the Third-Quarter 2017 Sale).

The HPD’s and WRBBD’s responses to WEG’s comments in the EA for the 2018Q1 Sale also addressed this argument (see WRBBD EA’s Attachment 2 at pages 8-10; see HPD EA’s Appendix F at pages 14-15).

The EAs both tier to and incorporate by reference the applicable RMP EISs, which include analysis of reasonably foreseeable impacts from leasing and development of public lands.

As we have previously and repeatedly explained to WEG, there remains substantial uncertainty at the time of leasing whether and to what extent lease sale parcels may eventually be developed, which limits the ability of the BLM to meaningfully evaluate potential impacts for the actions being considered. The EAs both acknowledge that the Federal action under consideration – leasing of the oil and gas for possible exploration and development – could eventually result in a variety of impacts (including GHG emissions) if the parcels were offered, if the parcels were successfully issued under lease, if the lessee or its operator proposed construction/drilling projects on the leases, if the BLM approved them, and if the projects were initiated and hydrocarbons were produced and eventually used in combustion.

In our review of the 2018Q1 Sale EAs, we find that both the WRBBD and HPD appropriately disclosed the reasonably foreseeable impacts that could result from Federal lease exploration and development activities, but acknowledge that there remains substantial uncertainty whether and how exploration and development of the Federal oil and gas resources would occur.

The uncertainty that exists at the time the BLM offers a lease for sale includes crucial factors that will affect potential impacts including GHG emissions, such as: well density; geological conditions; development type (vertical, directional, horizontal); hydrocarbon characteristics; equipment to be used during construction, drilling, production, and abandonment operations; and potential regulatory changes over the life of the 10-year primary lease term.

As an (updated) illustration of the uncertainty as to whether a lease parcel, if issued, will be developed, recent Geographic Information Systems (GIS) data (as of January/February 2017) indicate that most (58%) of Federal oil and gas leases in Wyoming do not have any active wells located within their boundaries. Using the January/February 2017 GIS data, the active well spacing on individual leases ranges from 5,494.7 acres per well to 0.1 acres per well ($\mu = 293.1$, $\sigma = 435.8$). Thus, there exists substantial uncertainty as to whether and to what degree leases will be explored or developed at the leasing stage.

It would be speculative for the BLM to attempt to analyze the site-specific effects from drilling and other development operations on the lands proposed to be offered for lease at this point in time. For these reasons, this portion of WEG’s protest is denied.

3. “The BLM improperly segments the March 2018 lease sale into two separate environmental assessments.” (WEG Protest at page 9).

Since 2010, the BLM has been administratively apportioning oil and gas lease sales by district; the first- and third-quarter sales contain parcels from the High Plains and Wind River/Bighorn Basin districts, and the second- and fourth-quarter sales contain parcels from the High Desert District. This administrative apportionment has been necessary for the BLM to coordinate and manage the complex tasks associated with preparing and conducting a lease sale in accordance with BLM policies and procedures.¹¹

We disagree with WEG's argument that the BLM has violated NEPA by apportioning its administrative tasks between the three Wyoming districts. The lease sale EAs tier to the respective RMP EISs, including the Bighorn Basin RMP EIS, the Lander RMP EIS, the Buffalo RMP EIS, the Casper RMP EIS, the Newcastle RMP EIS, and various RMP amendments. Each of these EISs considered cumulative impacts outside of the field office planning areas, including across administrative boundaries such as district office and state lines. For example, see the BLM's Wyoming Greater Sage-Grouse Proposed Land Use Plan Amendment and Final EIS (May 2015) at Section 4.21.1 ("[Cumulative] Impact Assessment Methodology"). Cumulative impacts in the RMP EISs included analysis of effects across various spatial and temporal scales, depending upon the resource being considered. While WEG does not raise concerns in this argument about any specific resource, one example of the RMP EISs considering impacts from oil and gas development across the BLM's administrative boundaries includes air quality (*id.*, Section 4.2.4, "Air Quality Impacts Associated with Oil and Gas Development"). For air quality, the FEIS evaluated impacts across all three of the BLM-Wyoming district boundaries in its Cumulative Impacts Analysis Area (CIAA). As the FEIS explains (at page 4-465):

For example, the air quality CIAA is large because it is based on the complex interaction between climatic factors, terrain, and the potential for significant impacts to occur in sensitive areas within the airshed.

As the BLM's record and NEPA compliance documentation amply show, the BLM did not improperly segment the consideration of impacts from this lease sale. For these reasons, we deny this portion of WEG's protest.

4. **"The BLM fails to acknowledge or analyze the cumulative impacts that would result from issuing the proposed lease parcels in conjunction with surrounding lease sales in Wyoming and adjacent states."** (WEG Protest at page 10). **"The BLM fails to properly analyze the direct and indirect impacts of greenhouse gas emissions that would result from issuing the proposed lease parcels."** (WEG Protest at page 14).

WEG again re-states arguments previously raised in prior protests (even if the arguments have been somewhat reformatted and updated by WEG) and that were previously addressed by the BLM. We refer WEG, again, to our previous protest decisions.

WEG continues to overlook the RMP EISs that have been prepared by the BLM, fails to appreciate how predicting specific emissions at the lease sale stage would be speculative and misleading to the public and the decision-maker, and fails to appreciate the role of other Federal and state agencies in addressing air quality concerns such as greenhouse gas emissions.

¹¹ Future quarterly BLM oil and gas lease sales in Wyoming will no longer include apportionment of parcels by district office. On January 31, 2018, the BLM – Washington Office issued an Instruction Memorandum, IM 2018-034 ("Updating Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews"). This policy directs the BLM to "no longer use a rotating schedule for lease sales..." This will result in parcels offered at future sales from each office where nominated lands in areas open to leasing are present, all else regular. This will partially be accomplished by reducing the period of time to accept new nominations for a particular lease sale and reducing the period of time for the BLM's lease sale reviews, the posting of the sale notice, and the protest period.

For the reasons we have previously, repeatedly, and amply provided to WEG, we deny these portions of WEG's protest.

5. **"The BLM fails to analyze the costs of reasonably foreseeable carbon emissions using well-accepted, valid, credible, GAO-endorsed, interagency methods for assessing carbon costs."** (WEG Protest at page 15).

In arguments substantively similar to those from previous lease sale protests, WEG argues that the BLM must use a "social cost of carbon protocol" (WEG's Protest at page 15) to assess economic and climate impacts from the lease sale. As we have pointed out to WEG in our previous protest decisions, this is not necessary and would be speculative at this point in time for this lease sale; using a Social Cost of Carbon protocol would require the BLM to haphazardly quantify monetized values associated with speculative impacts from possible activities that are untethered from any regulatory context or threshold. While certain policies of the Federal government have changed in the intervening time, and recent decisions by Federal District Courts have occurred,¹² the WSO's position remains that use of the Social Cost of Carbon (SCC) protocol for this Wyoming oil and gas lease sale would be (August 2015 Protest Decision at pages 20-21):

...less than helpful in informing the public and the decision-maker about the consequences of selecting [an] action alternative[.]. Given the confusion that this speculation and wide range of uncertainties introduces, we find that it is prudent for the BLM to avoid quantifying and analyzing specific estimates of GHG emissions from possible exploration or development of the lease parcels in the [oil and gas lease] Sale. If it is later determined to be necessary and appropriate, quantified analysis of GHG emissions and SCC would be less speculative at the point in time the BLM receives a proposal to conduct actual operations on the leases, if issued...

For these reasons, we deny this portion of WEG's protest.

National Parks Conservation Association and Powder River Basin Resource Council (NPCA/PRBRC)

NPCA/PRBRC protest 6 parcels located near the Fort Laramie National Historical Site (NHS) (NPCA/PRBRC Protest at page 2), which is located in the BLM's Casper Field Office, part of the High Plains District. At page 1 of their protest, NPCA/PRBRC identify six parcel numbers (WY[-181Q-011, -021, -022, -023, -024, and -025]). However, these parcel numbers do not match the parcels identified in a map submitted with their supplemental information to their Protest (see NPCA/PRBRC supplemental information submitted by facsimile, fax page 5).

As the Lease Sale Notice (at page xii) states:

A protest must... reference the parcel number identified in this sale notice. Use of any other parcel number will result in the protest being dismissed.

¹² The 2014 and 2017 decisions in the Districts of Colorado and Montana to which WEG references (WEG Protest at page 19) address issues related to coal mine leasing and mine expansion. There are some important differences between coal leasing and mine expansion and oil and gas leasing. Nevertheless, the court in *High Country Conservation Advocates, et al. v. United States Forest Service*, 52 F. Supp. 3d 1174 (D. Colo. 2014) did not order the agency to use the Social Cost of Carbon protocol. Rather, the Court held that the agency did not offer non-arbitrary reasons why the quantification of the lease modifications' contribution to the social cost of carbon were abandoned in the FEIS. The Court determined that the agency did not demonstrate that it took a "hard look" at whether using the Social Cost of Carbon protocol should not have been included in the FEIS when the protocol was included in the DEIS (*Id.* at 1191-1192).

It appears that NPCA/PRBRC's protest references the preliminary parcel numbers included in the EA, not the final parcel numbers from the sale notice. Based on the information submitted by NPCA/PRBRC, we assume their protest actually addresses final parcels WY-181Q-010, -020, -021, -022, -023, and -024).

1. **"The BLM's final EA for the March sale included no analysis or consideration of the lease sale's impacts on Fort Laramie [NHS], despite acknowledging concerns of the BLM's sister agency, the National Park Service (NPS), raised during the draft stage." (NPCA/PRBRC Protest at unnumbered page 2, footnote omitted). "BLM failed to consider the significance of impacts to Fort Laramie NHS." (NPCA/PRBRC Protest at unnumbered page 3).**

As NPCA/PRBRC acknowledge in their protest, the BLM has stated (HPD EA at page 11):

Notice letters were sent to the Forest Service, Douglas Ranger District and to units of the National Park Service in this regional area. The superintendent of the Fort Laramie National Historic Site identified concerns with oil and gas development in proximity to the Historic Site. Those concerns include activities within the visual setting of the area, effects on visitor experience, and impacts to air quality, water quality and night skies. These are impacts associated with lease development, and will be addressed site specifically if a development proposal is submitted.

The HPD's EA also addressed a number of National Historic Trails including those associated with the Fort Laramie NHS (see HPD EA at page 31). While the Fort Laramie NHS is not located on BLM-administered public lands, several segments of these trails or their settings are located on public lands (see Attachment 1). As the EA explains, lease stipulations were added to address the features associated with these trails and their historic and cultural settings on public lands (EA at page 32):

Cultural NSO and CSU stipulations have been applied to parcels in the First Quarter 2018 Competitive Oil and Gas Lease Sale. See Appendix A, Affected Environment Table, Column D, Cultural Sites/NHT for parcels with cultural and historical stipulations.

Fort Laramie NHS is a 792-acre site managed by the NPS. "Originally established as a private fur trading fort in 1834, Fort Laramie evolved into the largest and best known military post on the Northern Plains before its abandonment in 1890."¹³

In the 2007 FEIS prepared for the revision of the Casper RMP, the BLM adopted prior plans for the site (see FEIS at page 1-13) and considered two alternatives relating to the Fort Laramie NHS, both of which would continue the withdrawal of the 792-acre site from mineral entry and leasing and several which would expand the withdrawal to 940 acres (FEIS at page 2-69). The BLM's proposed plan provided (FEIS at page 4-275):

Cooperative management of public land tracts adjacent to Fort Laramie will continue, an existing minerals withdrawal will continue, and easements or other access rights will be pursued for the 13 miles of trail between Fort Laramie and Guernsey.

As the Record of Decision (ROD) to the Casper Field Office's RMP revision acknowledged (ROD at page 1-6):

For the Casper RMP revision planning effort, cooperating agency status was extended to the... National Park Service – Fort Laramie National Historic Landmark...

¹³ <https://www.nps.gov/foia/index.htm>

In the approved RMP, after coordination with the NPS the BLM decided to continue the withdrawal of the 792-acre site and “enlarge the withdrawal by 148 acres to 940 acres.” (ROD at page 2-36). Furthermore, the approved RMP provided that the BLM would (ROD at page 2-48):

Cooperatively manage per Interagency Agreement No. K910-A3-0013 with the NPS trail segments included in the agreement (see Appendix W).

Pursue transfers, land exchanges or sales exchanges, conservation easements, and other management agreements with other governmental entities with the intention of preserving the recreation and historic values of the 13-mile stretch between Fort Laramie and Guernsey (to be managed as a recreational corridor).

Manage pristine segments as VRM Class II; non-pristine segments as Class III.

For the six protested lease sale parcels, the HPD included a number of lease stipulations in order to conform to this RMP decision, including Controlled Surface Use (CSU) stipulations that would allow the BLM restrict surface occupancy or use within 3 miles of Oregon Trail segments and to protect Visual Resource Management (VRM) Class I and II areas. As Attachment 1 displays, National Historic Trail segments (such as the Oregon Trail) in the vicinity of the Fort Laramie NHS are located in several locations throughout the North Platte River valley, and within or adjacent to several of the protested parcels.

The HPD and WSO have also separately met with the NPS several times in recent years to address issues related to oil and gas leasing and development in proximity to NPS-managed units.

Through preparation of the RMP FEIS and approved ROD, and in coordination with the NPS as a cooperating agency (and with public involvement through the EIS process), the DOI has decided where and under what terms to manage oil and gas leasing in the vicinity of the Fort Laramie NHS. The public lands in the protested parcels are open for leasing with the restrictions provided in the lease stipulations.

We disagree with NPCA/PRBRC that “the BLM gave no consideration whatsoever to the impacts on Fort Laramie NHS, a proximate historic and cultural resource, and national park site.” As the record shows, the BLM prepared an EIS that addressed impacts to the site and prepared an EA that tiers to the EIS, and which describes the mitigation used to reduce impacts to the Fort Laramie NHS and its setting, included as lease stipulations to the proposed parcels. NPCA/PRBRC has not provided objective evidence that these stipulations and any site-specific measures developed at the time development is proposed would be inadequate to satisfactorily mitigate impacts to the site and its setting, if leased and if development is eventually proposed. Furthermore, NPCA/PRBRC overlook that the BLM will have the opportunity to evaluate potential impacts to the site (beyond the existing alterations to the setting of the NHS unrelated to oil and gas – see Attachment 1), if leased and if development is eventually proposed, in coordination with the NPS and in conformance with the approved RMP.

For these reasons, we deny NPCA/PRBRC’s protest.

Center for Biological Diversity, Upper Green River Network, and Western Watersheds Project (CBD et al.)

CBD et al. protest 79 parcels for various reasons, as described below.

1. “BLM has unlawfully restricted its NEPA analysis by arbitrarily limiting the scope of its

analysis of oil and gas activity that may result from the lease sale and by failing to analyze sufficiently site-specific impacts.” (CBD et al. Protest at page 3).

CBD et al. argue that the BLM “must analyze all site-specific impacts now, before it has leased the land and is unable to prevent environmental impacts.” (CBD et al. Protest at page 4). However, for the BLM to analyze “all site-specific impacts now” would require the BLM to speculate as to whether and how the parcels would be developed.

BLM policy does not require the agency to engage in speculative analysis under NEPA. The BLM’s NEPA Handbook (H-1790-1, January 2008) at page 59 states: “...you are not required to speculate about future actions. Reasonably foreseeable future actions are those for which there are existing decisions, funding, formal proposals, or which are highly probable, based on known opportunities or trends.” We agree with the leasing EAs that development of the subject parcels is not “highly probable.” See *Powder River Basin Resource Council*, 180 IBLA 119, 135 (decided November 2, 2010: “NEPA does not require BLM to hypothesize as to potential environmental impacts that are too speculative for a meaningful determination of material significance or reasonable foreseeability. Such an “analysis” would not serve NEPA’s goal of providing high quality information for informed decisionmaking [footnotes and internal citations omitted].”); see also *Southern Utah Wilderness Alliance*, 159 IBLA 220, 221 (decided June 16, 2003: “The Board may affirm BLM’s conclusion that the possible cumulative impact of a future action need not be considered significant when the reasonably foreseeable future action is speculative.”).

As we have described above (see answer to WEG, No. 2), there is still much uncertainty about the exact manner in which the proposed leases would be developed, if leased.

The BLM’s analysis of impacts associated with oil and gas development occurs in an iterative manner, with a proportionate level of detail in its impacts analysis under NEPA correlated to the action being contemplated by the BLM. First, an RMP EIS is prepared to comply with NEPA and FLPMA’s land use planning requirements, and to provide allocation decisions for oil and gas leasing and development on public lands; second, the BLM considers lands nominated for leasing in areas open to leasing during its lease sale review process, and supplements the RMP EIS with an EA or other NEPA compliance documentation as appropriate, ensuring that leasing conforms to the RMP and to provide for public participation; next, when field-development activities require, the BLM may prepare a programmatic or site-specific EIS to evaluate impacts from operations proposed on the leases; finally, and in all cases, the BLM will evaluate a site-specific action on individual oil and gas lease(s) at the Application for Permit to Drill (APD) or sundry notice stage, in compliance with 43 CFR 3162.5-1(a) and Onshore Oil and Gas Order No. 1. So, while CBD et al. may believe that the BLM should attempt to divine and analyze potential effects of development activities at the lease sale stage that may occur far removed in the future, and that are not reasonably foreseeable at this time, the BLM believes its iterative analysis of impacts in the manner described above satisfies NEPA’s requirements, BLM policy, and provides for proper management of public lands with ample public participation.

For the reasons described here and in our answer to WEG argument No. 2, we deny this portion of CBD et al.’s protest.

2. **“The proposed leasing action fails to prioritize leasing of fluid minerals outside of sage-grouse habitat, as required by the [Approved Resource Management Plan Amendment for Greater Sage-Grouse, or ARMPA]...”** (CBD et al. Protest at page 5).

The recently-revised RMP revisions and amendments include a “key component” of the land use plans (ARMPA ROD at page 19):

Prioritize the leasing and development of fluid mineral resources outside [Greater sage-grouse, or GRSG] habitat.

The Rocky Mountain ROD for the BLM's sage-grouse plan revisions and amendments describes this as an "objective" in the plans (at page 1-25):

Prioritization Objective—In addition to allocations that limit disturbance in [Priority Habitat Management Areas, or PHMAs] and [General Habitat Management Areas, or GHMAs], the ARMPs and ARMPAs prioritize oil and gas leasing and development outside of identified PHMAs and GHMAs. This is to further limit future surface disturbance and encourage new development in areas that would not conflict with GRSG. This objective is intended to guide development to lower conflict areas and as such protect important habitat and reduce the time and cost associated with oil and gas leasing development by avoiding sensitive areas, reducing the complexity of environmental review and analysis of potential impacts on sensitive species, and decreasing the need for compensatory mitigation.

This priority was not included as an allocation decision or management decision in the BLM's RMP revisions and amendments. To clarify how this objective would be implemented by the BLM, on September 1, 2016, the Washington Office issued Instruction Memorandum (IM) 2016-143.¹⁴ This IM only provided guidance on implementation of the land use plans, was not issued for public notice and comment, and therefore did not constitute rulemaking for the BLM.¹⁵

IM 2016-143 acknowledged that the prioritization objective "does not prohibit leasing or development in GHMA or [Priority Habitat Management Area, or PHMA] as the [sage-grouse plans] will allow for leasing and development by applying prioritization sequencing, stipulations, required design features, and other management measures to achieve the conservation objectives and provisions in the... plans" (at page 2).

Two days before the end of the protest period for the 2018Q1 lease sale, the BLM – Washington Office issued a new policy, replacing IM 2016-143.¹⁶ While some aspects of the policy changed, one aspect remained the same. As the new policy states (and similar to the original policy; see IM 2016-143 at page 2):

...the BLM does not need to lease and develop outside of GRSG habitat management areas before considering any leasing and development within GRSG habitat.

The new policy also provides that the more-stringent lease stipulations within from the approved RMPs "may be used... to encourage lessees to acquire leases outside of [Greater sage-grouse] PHMA due to fewer restrictions in those areas than in higher priority management areas." Finally, as both policies acknowledge (at n.1 in both IMs), the prioritization objective is merely an "administrative function" and is not an allocation decision.

We find that offering the lands proposed for lease in the 2018Q1 Sale conforms to the approved RMPs, and the BLM need not defer the protested parcels. For the reasons described above, we deny this portion of CBD et al.'s protest.

¹⁴ "Implementation of Greater Sage-Grouse Resource Management Plan Revisions or Amendments – Oil & Gas Leasing and Development Sequential Prioritization."

¹⁵ See *Wyoming Outdoor Council et al.* (171 IBLA 153, 153): "A BLM instruction memorandum is not a regulation, has no legal force or effect..."

¹⁶ IM 2018-026 ("Implementation of Greater Sage-Grouse Resource Management Plan Revisions or Amendments – Oil & Gas Leasing and Development Prioritization Objective"), dated December 27, 2017.

3. **“BLM has failed to take a ‘hard look’ at the site-specific environmental consequences of leasing the proposed parcels.”** (CBD et al.’s Protest at page 6). **“BLM has failed to consider the cumulative impacts of massive oil and gas leasing and development on Greater sage-grouse habitat in Wyoming...”** (CBD et al.’s Protest at page 7).

Curiously, CBD et al. begin their argument by asserting a failure to comply with NEPA’s obligations through the BLM’s action to (Protest at page 6):

...[rely] on the landscape-scale RMP and ARMPA EISs, and use of a Determination of NEPA Adequacy [DNA]... *The DNA completely fails to conduct an informed, site-specific analysis...*

On page 7 of their Protest, CBD et al. continue:

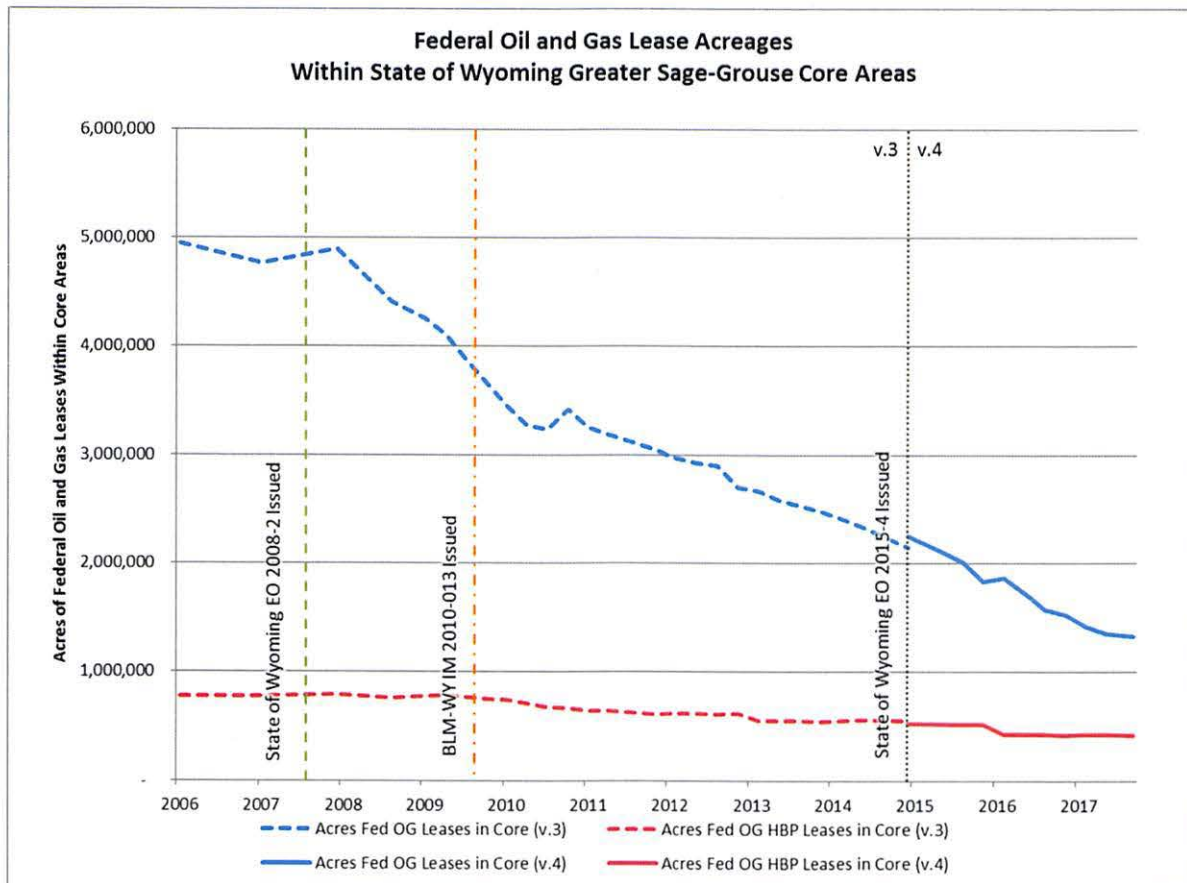
The DNA fails to engage in any such cumulative impacts analysis.

We would like to point out to CBD et al. that the BLM did not prepare a DNA for this lease sale. We believe CBD et al. must be referring to a different BLM lease sale and, since CBD et al. appear not to have taken a close look at the NEPA compliance documentation prepared by the BLM for the 2018Q1 Sale, we find their contention that the BLM failed to take a “hard look” unavailing. As we have described, above, the BLM prepared two lease sale EAs for the 2018Q1 Sale, which were tiered to the respective RMP FEISs, which contain detailed analysis of potential impacts from oil and gas leasing and development, including cumulative impacts over the life of the RMPs.

CBD et al. also provide arguments essentially challenging the decisions made in the BLM’s 2014-2015 Greater sage-grouse RMP revisions and amendments. For example, CBD et al. take issue with the sage-grouse lek buffers provided for in the RMPs (Protest at pages 7-10). Neither CBD nor the Upper Green River Network protested the approved RMPs. Western Watersheds Project did protest the approved RMPs, but their protests were denied by the BLM Director.¹⁷ CBD et al. cannot challenge the RMP decisions which they failed to successfully protest, and this lease sale does not provide CBD et al. with a new opportunity to challenge previous BLM land use planning decisions.

Similarly, we disagree with CBD et al.’s arguments that the BLM has “violat[ed]” its RMP decisions through the “widespread and ongoing pattern of leasing vast areas of sage-grouse habitat, including priority habitat, since finalization of the ARMPAs...” (CBD et al.’s Protest at page 11). In fact, as supported by analysis of BLM GIS data, the evidence just does not support CBD et al.’s belief that the BLM has leased “vast areas of sage-grouse habitat, including priority habitat, since finalization of the ARMPAs.” Since the BLM, State of Wyoming, and other partners began development and implementation of the current sage-grouse conservation strategy in 2008, there has been a 73% reduction in the area of Federal oil and gas leases in Core Population Areas. Similarly, there has been a 48% reduction in the area of Federal oil and gas leases that are Held By Production (HBP) within Core Population Areas:

¹⁷ For example, see the Director’s Protest Resolution Report for the Wyoming Greater Sage-Grouse Land Use Plan Amendment / Final Environmental Impact Statement, available at: <https://www.blm.gov/programs/planning-and-nepa/public-participation/protest-resolution-reports>



Contrary to CBD et al.'s assertion, the BLM has not leased "vast areas" in the most-important habitats contained within Core Population Areas, and the current area of Federal oil and gas leases in Core Population Areas is the lowest since before the BLM adopted its revised and amended RMPs designed to increase conservation of Greater sage-grouse and their habitats. This trend has continued since the 2014-2015 revisions and amendments were finalized.

For these reasons, we dismiss CBD et al.'s protests to the extent they seek to challenge previous RMP decisions that occurred in 2014 and 2015; we deny their remaining protests for the reasons stated above.

4. **"BLM has failed to take a hard look at hydraulic fracturing impacts to humans, aquatic species, and the environment..."** (CBD et al.'s Protest at page 13).

Hydraulic fracturing is not a part of the proposed action currently being contemplated by the BLM. The BLM has, to the extent practicable at the leasing stage, disclosed and considered impacts associated with hydraulic fracturing in the RMP EISs and the EAs (e.g., see HPD's EA at page 10; see WRBBD's EA at pages 3-22 to 3-23). As we have explained, above, it is not reasonably foreseeable at this point in time to predict the nature of development on the proposed parcels. We have also explained that the BLM's iterative analysis of reasonably foreseeable impacts associated with oil and gas development, commensurate with the action being considered by the BLM, will ensure that the agency has the ability to address reasonably foreseeable impacts before authorization, including from hydraulic fracturing operations. For these reasons, we deny this portion of CBD et al.'s protest.

5. **"BLM has failed to consider a reasonable range of alternatives."** (CBD et al.'s Protest at page 15).

CBD et al. continue to overlook that the BLM prepared RMP EISs to which the lease sale EAs are tiered. In the RMP EISs, the BLM considered a range of alternative land use allocations for the public lands in Wyoming. CBD et al. may disagree with the approved RMP's decisions to not close the lands currently proposed for leasing in the 2018Q1 Sale, but they have not shown that the BLM failed to conform to the approved RMP or failed to comply with NEPA. We deny this portion of CBD et al.'s protest.

6. **“At a minimum, if BLM elects to proceed with the sale, (a) it must not do so prior to the preparation of a legally-adequate [EIS] that takes a hard look at the reasonably foreseeable indirect and cumulative impacts of leasing activities in Wyoming, and (b) incorporates into the lease terms all stipulations required by the 2015 Greater Sage-Grouse [ARMPA].”**
(CBD et al.'s Protest at page 15).

CBD et al. first requests relief through preparation of an EIS that looks at reasonably foreseeable impacts of leasing (and, presumably, oil and gas development) activities in Wyoming. The BLM has prepared RMP EISs that do just that. We refer CBD et al. to the lease sale EAs, which identify the RMP EISs to which they are tiered (see HPD's EA at page 5 and WRBBD's EA at page 1-1).

CBD et al.'s second plea for relief seeks to have all lease stipulations incorporated to the proposed lease sale parcels as required by the BLM's Greater sage-grouse RMP amendments (and, presumably, revisions). The BLM has done just that, and CBD et al. do not claim or provide evidence demonstrating otherwise. The EAs (see HPD's EA at Appendix C and WRBBD's EA at Attachment 1) describe all of the applicable lease stipulations from the RMPs, including those for the protection of Greater sage-grouse and their habitats.

The Wilderness Society, Wyoming Outdoor Council, and National Audubon Society (TWS et al.)

NAS et al. submitted separate protest letters for the HPD and WRBBD parcels, but (in sum) protest all 170 parcels. Where appropriate, we combine their arguments for both the HPD and WRRBD, since their arguments are substantially if not exactly identical for the parcels in both districts.

1. **“BLM has failed to consider a reasonable range of alternatives in the March EA.”** (TWS et al. Protest at page 2).

In this argument, TWS et al. state (Protest at page 3):

An EA offering a choice between leasing nearly every parcel nominated, and leasing nothing at all does not present a reasonable range of alternatives.

This argument overlooks that the RMP EISs to which the EAs tier did evaluate a much broader range of alternatives, including closing certain portions of Greater sage-grouse habitat to oil and gas leasing and development. Furthermore, TWS et al. overlook that the BLM has routinely selected elements of both an action and no action alternative in previous lease sales, in compliance with BLM regulations and policy.¹⁸ For example, in the HPD's 2017Q3 Sale, the BLM selected elements of the Proposed Action Alternative and the No Action Alternative (2017Q3 Decision Record at page 1). Similar issues were raised by WEG in their protest; we refer TWS et al. to our answer to WEG, above, for argument No. 1. We deny this portion of TWS et al.'s protest.

¹⁸ 43 CFR 46.420(c): “The Responsible Official must not consider alternatives beyond the range of alternatives discussed in the relevant environmental documents, but may select elements from several alternatives discussed.”

2. **“BLM has failed to consider the impacts of its leasing decision and its Finding of No Significant Impact is invalid.”** (TWS et al. Protest at page 5).

Continuing to overlook the RMP EISs to which the lease sale EAs tier, TWS et al. argue (WRBBD Protest at page 5, HPD Protest at page 6):

BLM has not completed the analysis to determine what impacts are likely under the stipulations proposed for these leases, and whether those stipulations will be adequate to prevent significant adverse impacts to sage-grouse and other resources such as water supplies and public health. Nor can the BLM conclude that the potential economic benefits of leasing these parcels outweigh the environmental and economic harms to the local community and other resources.

But that is exactly what the RMP EISs have done. TWS et al. may disagree with the decisions made in the RMP EISs, but after analyzing and disclosing potential impacts from leasing and development under a variety of alternatives, the RMP RODs selected an alternative to govern the allocation of multiple uses across the public lands within their respective planning areas. As a part of their analyses, the RMP EISs considered a variety of allocation decisions and corresponding lease stipulations. The EAs tier to the RMP EISs which disclosed potentially significant effects to the environment.

TWS et al. extend their argument further in their belief that (WRBBD Protest at page 6, see similar language in HPD Protest at page 6):

...the Finding of No Significant Impact (FONSI) proposed for this lease sale does not meet the standards required to issue a FONSI. The CEQ NEPA regulations only allow a FONSI if an agency validly concludes its project “will not” significantly affect the human environment.

The lease sale EAs tier to the RMP EISs. As the BLM has stated repeatedly since 2012, the FONSI prepared for the BLM-Wyoming lease sale EAs are more appropriately considered Findings of No New Significant Impacts, in accordance with 43 CFR 46.140(c), since the RMP EISs have already evaluated potentially significant impacts arising from the BLM’s land use planning and implementation decisions.

We find the HPD’s and WRBBD’s EAs comply with NEPA and BLM regulations and policies.

For these reasons, we deny this portion of TWS et al.’s protest.

3. **“BLM has failed to consider the cumulative impacts of leasing.”** (TWS et al. Protest at page 7).

Again continuing to overlook the RMP EISs to which the lease sale EAs tier, TWS et al. argue (WRBBD Protest at page 7, HPD Protest at page 8):

BLM must analyze and disclose the cumulative impacts of this wave of leasing on the Greater sage-grouse and its habitat.

But evaluating the cumulative impacts of oil and gas leasing (and development) is exactly what the RMP EISs have done. Furthermore, at least in Wyoming, the “wave of leasing” that TWS et al. fear should be put in proper context. As we explained to CBD et al., above (see our answer to CBD et al., argument No. 3), the current extent of Federal oil and gas leases in Core Population Areas is at the lowest level since before the BLM, State of Wyoming, and other partners began developing and implementing the Core Population Area strategy. Attachment 2 to this protest decision, using the most recent GIS data available, displays the current extent of Federal oil and gas leases in Wyoming’s Core Population Areas (identical to

the PHMAs in the approved RMPs). While TWS et al. may fear a “wave of leasing” in sage-grouse habitats, the proposed lease sale is in conformance with the approved RMPs (including the sage-grouse conservation measures and stipulations) and occurs at a point in time where threats in Wyoming to sage-grouse and their habitats from Federal oil and gas lease development are at the lowest point in a decade.

Additionally, when the BLM prepared its 2014-2015 Greater sage-grouse RMP revisions and amendments, it purposely considered Western Association of Fish and Wildlife Agencies (WAFWA) management zones for Greater sage-grouse, which encompass multi-state regions, in coordination with the U.S. Fish and Wildlife Service and the state agencies responsible for managing sage-grouse populations. Similarly, the BLM issued RODs for two regions: the Rocky Mountain region and the Great Basin region. These RODs acknowledged the decisions and effects that were considered on a regional basis.

We find that the BLM adequately evaluated the cumulative impacts of leasing in the RMP EISs to which the leasing EAs tier, and have satisfied NEPA’s procedural requirements in this regard. For these reasons, we deny this portion of TWS et al.’s protest.

4. **“The March EA underestimates impacts to groundwater resources by incorrectly assuming that useable water sources will be protected.”** (TWS et al. WRBBD Protest at page 8, HPD Protest at page 9).

Taking issue with a statement in the EA (WRBBD’s EA at page 3-34), TWS et al. argue that it is “not clear” that the BLM will follow its regulations at 43 CFR 3162.5-2(d). The BLM’s lease sale EAs do not propose to deviate from compliance with applicable BLM regulations; regardless, construction, drilling, completion, and other activities are not currently proposed on the subject lease sale parcels. When appropriate, and keeping with the BLM’s iterative analysis of impacts commensurate with the action under review by the agency, the BLM will consider potential effects to groundwater resources at the time it reviews a site-specific proposal.

Most of TWS et al.’s arguments pertain to the BLM’s existing regulations in our Onshore Oil and Gas Order No. 2 and 43 CFR 3162.5-2(d), and the BLM cannot answer a challenge of those rules in a protest decision for an oil and gas lease sale, when the operations of concern to TWS et al. are not currently proposed nor reasonably foreseeable.

In addition, as the Interior Board of Land Appeals has previously found (*Powder River Basin Resource Council et al.*, 180 IBLA 32, 57, decided September 15, 2010):

BLM need not evaluate the potential environmental consequences resulting from noncompliance with Federal and State permitting requirements or assume that violations of Federal and State standards will inevitably occur.

Yet that is exactly what TWS et al. seek of the BLM, here, while disregarding the role of other state and Federal agencies in protecting groundwater resources.

For these reasons, we deny this portion of TWS et al.’s protest.

5. **“BLM is not meeting the multiple use requirements of FLPMA.”** (TWS et al. WRBBD Protest at page 11, HPD Protest at page 12).

Arguing that “[e]nvironmentally responsible leasing would not open all lands up to leasing that industry desires—this is energy dominance not multiple use” (WRBBD Protest at page 12, HPD Protest at page

13), TWS et al. raise concerns with the leasing of the subject lands in the 2018Q1 Sale. However, TWS et al. have not argued or provided evidence that the proposed lease sale parcels are located in areas closed to oil and gas leasing under the approved RMPs. While TWS et al. may disagree with the RMP decisions already made, the BLM is leasing lands in conformance with the approved RMPs. In almost all lease sales, the BLM receives nominations for lands that are located in areas closed to leasing under the approved RMP. In those cases, the nominated lands are very rarely provided in the preliminary lease sale parcel list sent by the WSO to BLM field offices for review. So, even though TWS et al. may not recognize this since those lands are not typically described in our lease sale NEPA compliance documentation, the BLM does not “open all lands up to leasing” through its lease sale review. The decision to open lands for leasing was made in the RMPs, subject to protest and challenge at that time. Members of TWS et al. have protested the RMP decisions, and none were upheld by the BLM Director in 2014-2015. The implementation of the RMPs through the 2018Q1 lease sale does not provide for yet another opportunity for TWS et al. to protest the underlying RMP decisions.

TWS et al. have not provided objective evidence to conclusively demonstrate that offering any of the protested parcels in the 2018Q1 lease sale is not in conformance with the approved RMPs. We find that the BLM continues to comply with FLPMA and our regulations and policies by offering the protested parcels, in conformance with the land use plans prepared pursuant to FLPMA, and deny this portion of TWS et al.’s protest.

6. **“BLM failed to prioritize leasing outside of Greater sage-grouse habitats.”** (TWS et al. Protest at page 14).

In our review of TWS et al.’s arguments regarding prioritization of leasing under the objective in the 2014-2015 Greater sage-grouse RMP revisions and amendments, we find that they are substantively similar or identical to those raised by CBD et al., above. We refer TWS et al. to our response to CBD et al., above.

We deny this portion of TWS et al.’s protest.

7. **“BLM is not meeting the Mineral Leasing Act requirement to prevent waste of natural gas.”** (TWS et al. WRBBD Protest at page 18, HPD Protest at page 19).

Arguing that the BLM should “put in place rules to prevent waste and to ensure all reasonable precautions are used to prevent waste” (WRBBD Protest at page 19, HPD Protest at page 20), TWS et al. raise concerns with potential operations on the leases that are not reasonably foreseeable at this time, and that are covered by BLM regulations and policies. In the 2018Q1 Sale, the BLM is not proposing rulemaking to address waste prevention. If the lands are successfully leased, and if natural gas production operations are eventually proposed and initiated, the BLM will comply with the applicable rules regarding waste prevention.

We deny this portion of TWS et al.’s protest.

DECISION

After a careful review, the BLM has determined that the protests to the parcels in this sale will be denied for the reasons described above. All of the protested parcels described in the March 21-22, 2018 Notice of Competitive Oil and Gas Lease Sale will be offered, as described in the Sale Notice and subsequent Information Notices.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in

accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1 (Attachment 6). If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from your receipt of this decision. The protestor has the burden of showing that the decision appealed from is in error.

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 Board, the petition for a stay must accompany your notice of appeal. 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 be submitted to each party named in this decision, to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor (see 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 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 protestor'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.



Duane Spencer
Deputy State Director,
Minerals and Lands

3 – Attachments:

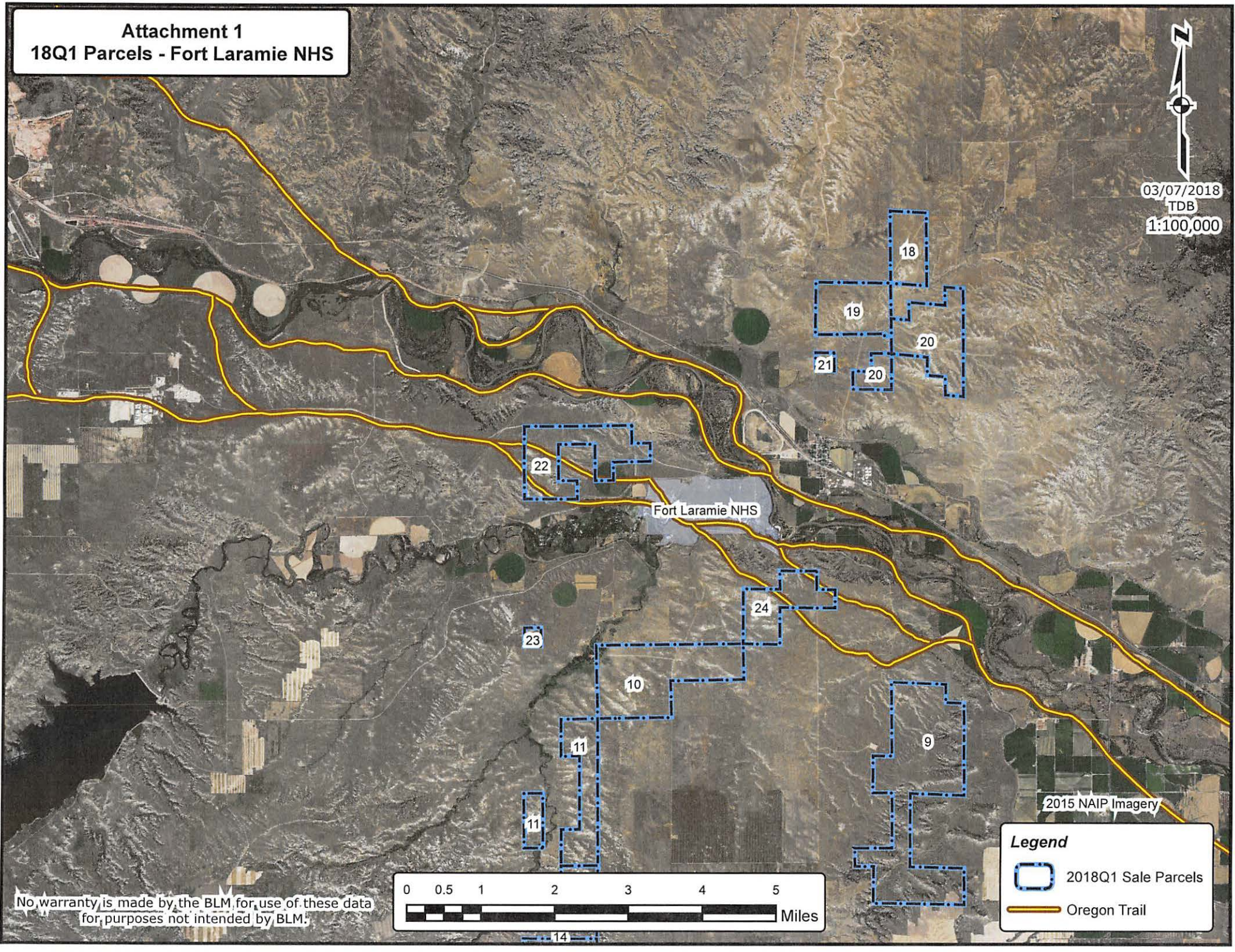
Map 1 (Fort Laramie NHS Parcels)
Map 2 (Existing Federal Oil and Gas Leases in Wyoming Core Population Areas)
Form 1842-1

cc: (by e-mail unless otherwise noted)
District Manager, High Plains District
Field Manager, Buffalo Field Office
Field Manager, Casper Field Office
Field Manager, Newcastle Field Office
District Manager, Wind River/Bighorn Basin District
Field Manager, Cody Field Office
Field Manager, Lander Field Office
Field Manager, Worland Field Office
Deputy State Director, Division of Minerals and Lands (920)
Deputy State Director, Division of Resources (930)

Chief, Branch of Leasing and Adjudication (923) e-mail & final copy on letterhead
Kelly Roberts (923) e-mail & final copy on letterhead
Travis Bargsten (921) e-mail & final copy on letterhead

Attachment 1
18Q1 Parcels - Fort Laramie NHS

03/07/2018
TDB
1:100,000

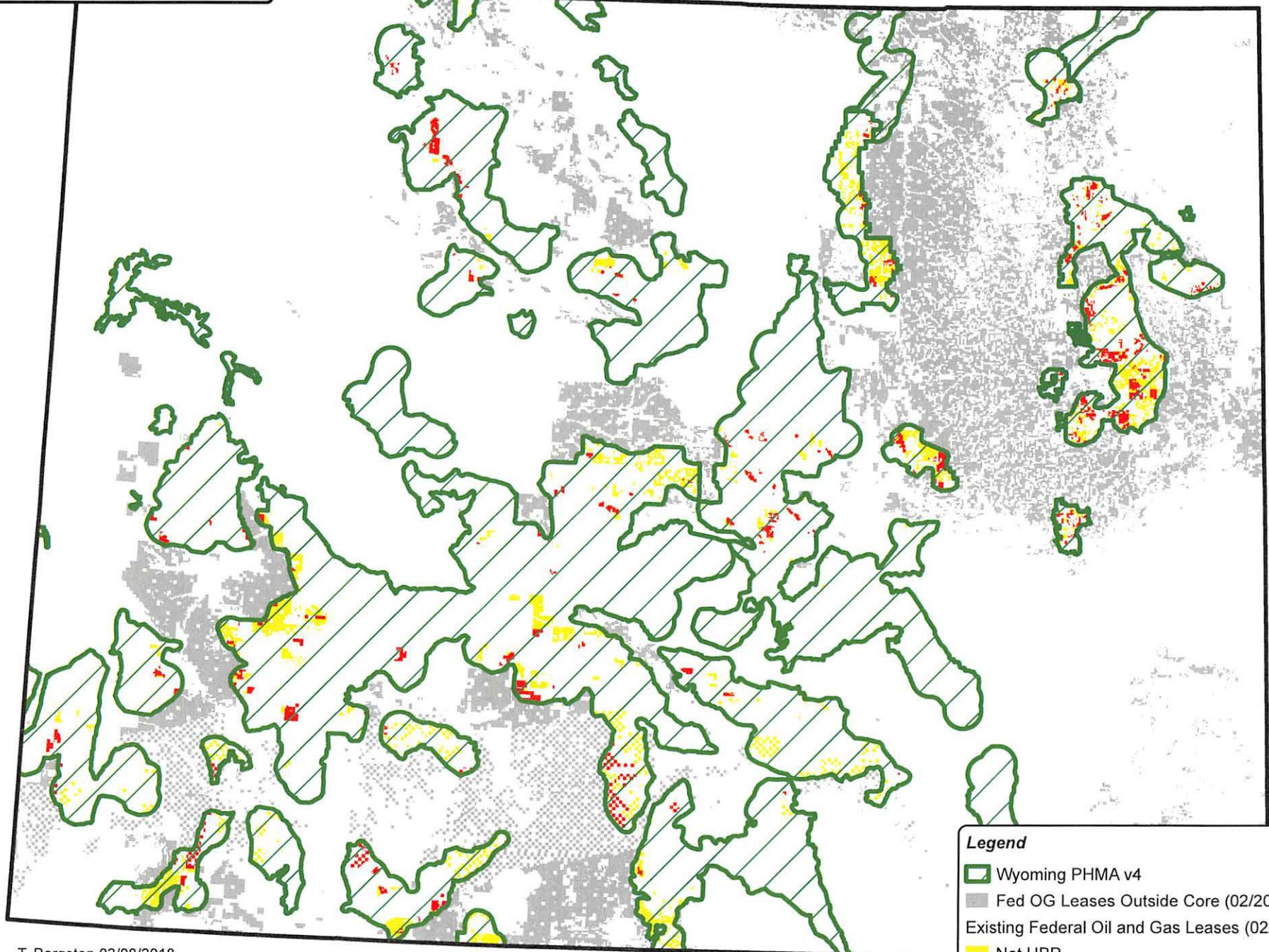


No warranty is made by the BLM for use of these data for purposes not intended by BLM.

Legend

-  2018Q1 Sale Parcels
-  Oregon Trail

Attachment 2
Existing Fed Oil & Gas Leases



Legend

- Wyoming PHMA v4
- Fed OG Leases Outside Core (02/2018)
- Existing Federal Oil and Gas Leases (02/2018)
- Not HBP
- HBP

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
5353 Yellowstone Road, Cheyenne, WY 82009 or P.O. Box 1828, Cheyenne, WY 82003

WITH COPY TO
SOLICITOR... U.S. Department of the Interior, Office of the Solicitor, Rocky Mountain Region
755 Parfet Street #151, Lakewood, CO 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, Office of the Solicitor, Rocky Mountain Region
755 Parfet Street #151, Lakewood, CO 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)