



January 19, 2023

Submitted via eplanning.blm.gov

Andrew Archuleta
State Director
Bureau of Land Management
Wyoming State Office
5353 Yellowstone Road
Cheyenne, WY 82009

Re: Scoping Comments on the Q3 2023 Wyoming Competitive Oil and Gas Lease Sale

Dear Director Archuleta:

Western Energy Alliance welcomes BLM's intent to conduct a third quarter 2023 lease sale for Wyoming and Nebraska, particularly as oil and natural gas development delivers value not just to the federal government and American people but also sustains rural communities and western states. Our members operate in good faith on public lands in an environmentally responsible manner and, as such, we appreciate BLM's plans for second and third quarter sales in Wyoming and hope to see the same in other states. We strongly encourage BLM to refrain from arbitrarily deferring parcels and to recognize in its analysis the numerous restrictions and stipulations attached to individual parcels, the significant technological advances in horizontal drilling which greatly reduce our operational footprint, and the governing Resource Management Plans (RMPs) that designated these lands as open for oil and natural gas development.

The Mineral Leasing Act mandates that the Interior Secretary hold oil and natural gas lease sales "for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary."¹ However, BLM's press release associated with this lease sale states that it is only being held to comply with the Inflation Reduction Act (IRA),² which mandates that BLM cannot issue wind or solar rights-of-way unless it has held an onshore oil and natural gas lease sale within the preceding 120 days and offered not less than two million acres or 50% of the acreage nominated within the previous year.³ While IRA arguably incentivizes additional *discretionary* oil and natural gas leasing, IRA neither eliminates nor modifies BLM's existing obligation under the Mineral Leasing Act to conduct quarterly lease sales "where eligible lands are available."⁴ Because BLM has not conducted any lease sales in Wyoming since

¹ 30 U.S.C. §226(b).

² ["Bureau of Land Management Wyoming Seeks Feedback on Proposed Oil and Gas Lease Sale"](#), BLM, December 20, 2022.

³ [Inflation Reduction Act](#), August 16, 2022.

⁴ 30 U.S.C. § 226(b)(1)(A).

June 2022, despite the existence of eligible lands being available within the state, BLM is already out of compliance with this statutory obligation.

Even if IRA were the relevant legal justification, BLM has not provided the public with information to determine whether IRA's leasing provisions have been satisfied. To our knowledge, BLM has not made Expression of Interest (EOI) data available, and therefore, stakeholders are unable to assess whether BLM is meeting the 50% threshold. We request that BLM make that data available as soon as possible so the public can fully understand the agency's efforts to meet IRA leasing obligations under its leasing program. While we disagree with the Interior Secretary's decision to state that IRA, and not the Mineral Leasing Act, is the motivating factor for the sale, we appreciate BLM moving forward with leasing in 2023.

BLM must ensure it does not arbitrarily defer parcels that are eligible for leasing, especially parcels within existing federal oil and natural gas units and producing fields and/or adjacent to existing infrastructure, particularly where deferral is not supported by the administrative record or the governing RMPs. Our concern arises from what we observed with the 2022 Wyoming lease sale environmental analysis (EA) wherein BLM deferred numerous parcels at the discretion of the State Director simply because BLM apparently determined the parcels *may* have low potential for development, when in fact many of them fell within existing oil and natural gas units and/or adjacent to existing leases and production. We appreciate that 30 parcels in the Q2 2023 EA that were deemed to have low potential in the governing RMPs were included due to their proximity to existing development. We encourage BLM to continue this thoughtful approach into the future.

That said, we are significantly concerned about the lack of information surrounding BLM's decision to defer 18 parcels from the Q2 2023 sale. BLM's Q2 2023 Finding of No Significant Impact (FONSI) states that BLM deferred these 18 parcels in accordance with criteria #2 in Instruction Memorandum (IM) 2023-007. That criteria directs BLM to deem parcels as low preference due to the "the presence of important fish and wildlife habitats or connectivity areas, giving preference to lands that would not impair the proper functioning of such habitats or corridors."⁵ BLM failed to provide adequate explanation for these deferrals in the Q2 2023 EA and FONSI. Not only could these deferrals have a significant impact on expanding existing units or development to federal and nonfederal leases in the area, they could also unnecessarily stifle exploratory development and infrastructure buildout. In the future, BLM needs to provide a clear explanation of why parcels are deemed low preference and deferred when evaluating oil and natural gas lease parcels in accordance with IM 2023-007.

BLM is proposing to defer 30 parcels from the Wyoming Q2 2023 sale due to the prioritization of parcels outside Greater Sage-Grouse (GRSG) habitat. In doing so, BLM disregarded its own process for prioritizing parcels based on the 2015 RMP amendments

⁵ [BLM IM 2023-007](#), November 21, 2022

and disregarded the significant technological advances in horizontal drilling that have occurred in Wyoming. The average horizontal well in the Powder River Basin can be drilled to a depth of approximately two miles and at a lateral distance of two to three miles. These significant distances result in substantially less surface disturbance while at the same time increasing production efficiency. We call your attention to the peer reviewed study by Applegate and Owens that shows a 70% reduction in surface disturbance in Wyoming from increased use of horizontal drilling.⁶ BLM's analysis needs to account for this decrease in surface disturbance and access roads created by the transition to horizontal drilling and the resulting reduction in habitat fragmentation. BLM must also ensure it follows the existing 2015 GRSR RMP amendments and account for the technological advancements that have taken place since that time in its analysis. As BLM moves forward with the Q3 2023 sale, it should not repeat the mistakes in this regard made for the Q2 sale.

Lastly, we disagree with BLM's reasoning that it should count acres originally listed for consideration in the EA process for sales but then deferred and not offered on the final sale list as meeting the criteria for the 50% threshold specified in IRA. Should BLM do so, it would not be meeting the IRA requirement for offering sufficient oil and natural gas acreage to meet the threshold to issue wind and solar rights-of-way. Since deferred parcels will not be included in the final lease sale list, they should not be deemed as offered for purposes of meeting the IRA threshold. Furthermore, acreage that has been deferred once and then again included in subsequent scoping only to be deferred again should not be included in BLM's formula as additional acreage offered. BLM included acreage in both the Q2 and Q3 2023 lease sale scoping lists that had been originally listed but then subsequently deferred from the 2022 lease sale. This past experience makes us question whether BLM will defer parcels in the final EAs. BLM should not be counting acreage multiple times, especially if it intends to defer the acreage.

Western Energy Alliance appreciates the opportunity to submit these comments. Please do not hesitate to contact me with any questions.

Sincerely,



Kathleen M. Sgamma
President

cc: Duane Spencer, Deputy State Director, Minerals & Lands
Chris Hite, Branch Chief for Fluid Minerals Adjudication
Allen Stegeman, Natural Resources Specialist

⁶ ["Oil and gas impacts on Wyoming's sage-grouse: summarizing the past and predicting the foreseeable future,"](#) *Human-Wildlife Interactions* Vol. 8 No 2, Dave H. Applegate and Nick L. Owens, 2014, p. 284-290.