MAKING THE GRADE (ALMOST):
The BLM’s progress and improvements to our nation’s onshore oil and gas leasing program
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Fixing a broken system of oil and gas leasing and development on our public lands

At the beginning of this Administration, a court formally prohibited the Bureau of Land Management from issuing 77 leases sold in Utah in December 2008. The court found the decision-making process to be fundamentally broken, and prompted the agency to reconsider its entire management of onshore oil and gas leasing.\(^1\) The court’s decision was a culmination of years of protests and lawsuits challenging BLM oil and gas leasing decisions throughout the West and was the ultimate finding that the agency’s approach to managing oil and gas development was fundamentally broken.\(^2\)

Deputy Secretary of the Interior, David Hayes responded in early 2009 by directing an analysis of the leasing decisions made in Utah, which identified the need for both a more in-depth evaluation of the 77 disputed leases invalidated by a federal court and for better guidelines for BLM leasing practices overall. The analysis was conducted by an interdisciplinary team of experienced BLM and National Park Service employees, led by Mark Stiles, Supervisor of the San Juan National Forest, who visited nearly all of the lease parcels and interviewed BLM staff. The final report (referred to as the Stiles Report\(^3\)) made recommendations on future handling of each lease parcel and on addressing critical problems with the BLM’s oil and gas leasing program.

The recommendations of the Stiles Report contributed to BLM’s May 2010 oil and gas leasing reforms,\(^4\) which ushered in a more balanced approach to oil and gas leasing and development on the public lands. The reforms require consideration of the many multiple uses of the public lands while providing a path toward more certainty for both industry and the public. Now that the reforms have been fully in effect for just over one year,\(^5\) The Wilderness Society has seen improved recognition and protection of important wildlands, wildlife habitat, cultural resources, and recreation opportunities – vital resources of our shared public lands. BLM is making progress, but additional improvements to the onshore oil and gas leasing program are still needed.

This report identifies the progress made toward fixing the problems with the oil and gas program identified in the Stiles Report and the areas that still require improvement. The existing surpluses of unused leases and drilling permits, as well as reduced industry interest in developing natural gas on public lands, makes this an especially opportune time to ensure that ongoing leasing and development is done in the right places and in the right manner.
Overview of key policy changes

This report looks at seven of the key policy changes made in response to the recommendations of the Stiles Report and how they are improving the BLM’s approach to oil and gas leasing.

1. BLM has set the appropriate context for oil and gas leasing—acknowledging it is just one use of the public lands.

2. The President’s “Blueprint for a Secure Energy Future” emphasizes oil and gas production but also the importance of reducing the environmental impact and increasing the safety of production.

3. A new planning tool, Master Leasing Plans, provides an opportunity for more responsible and efficient development, but requires formal agency support.

4. BLM’s Greater sage-grouse planning effort provides an important opportunity to both conserve this imperiled species and responsibly manage oil and gas development on public lands.

5. BLM’s guidance on inventorying and management of lands with wilderness characteristics provides direction to BLM for acknowledging and conserving this important resource, but the value of identifying and protecting wildlands requires ongoing emphasis.

6. Leasing and drilling is becoming more transparent, although significant gaps remain.

7. Increased public and stakeholder participation are contributing to BLM refining its leasing decisions and better addressing potential environmental harms and conflict (and the attendant delays).
Key policy changes:
Making progress, but we are not there yet

Policy change #1: BLM has set the appropriate context for oil and gas leasing—acknowledging it is just one use of the public lands

BLM’s oil and gas leasing reforms set a strong framework for balancing the multiple uses of the public lands, stating:

The BLM recognizes that, in some cases, leasing of oil and gas resources may not be consistent with protection of other important resources and values, including units of the National Park System; national wildlife refuges; other specially designated areas; wildlife; and cultural, historic, and paleontological values. Under applicable laws and policies, there is no presumed preference for oil and gas development over other uses.

This framework can and should continue to guide the BLM’s approach to oil and gas leasing and development and is ultimately most consistent with BLM’s multiple use mission to manage all of the resources of the public lands, including energy production, wilderness, wildlife, and recreation.

How we know this policy change is working:
Taking into account the many resources and uses of the public lands has contributed to a reduction in legal protests of lease sales, while protecting areas that should not be leased. BLM is also looking at if, where, and how development should occur on landscapes through Master Leasing Plans, so that oil and gas development is evaluated with explicit consideration of other resources. At the same time, production of oil and gas from the public lands remain at high levels.

Stiles Report Recommendations

“There is a need to develop a process to adequately reflect the needs of other resources as identified in each field office’s RMP during the lease formulation process.… [T]he BLM should take a greater role in identifying which parcels should be offered for lease and an interdisciplinary process should be used in identifying these parcels.

Parcel configuration should be by the BLM’s choice rather than the result of screening out various pieces that may have been nominated by industry since the ultimate configuration of a parcel in itself may result in unnecessary environmental effects and may not be in the interest of orderly development.”

The Stiles Report also found that there was a “misconception” among BLM staff that “they were required by law to give greater deference to mineral leasing proposals than to protection of other land uses on specific leases.”
Policy change #2: The President’s “Blueprint” emphasizes oil and gas production but also the importance of reducing the environmental impact and increasing the safety of production.

In 2011, President Obama issued a “Blueprint for a Secure Energy Future” that set out goals and measures for developing America’s energy supplies (increasing oil and gas production but also moving toward cleaner energy); providing consumers with choices to reduce costs and save energy; and innovating toward a clean energy future.

For oil and gas, in addition to a commitment to increasing production, the Blueprint also focused on “Identifying the Best Public Land Sites for Development” (which notes the expected contribution of the oil and gas leasing reforms) and “Encouraging Responsible Development Practices for Natural Gas.”

A Progress Report was issued in March 2012, focusing on the Blueprint as part of the administration’s “all-of-the-above energy approach” and highlighting increased oil and gas production, planned incentives for increasing production, and improving safety and efficiency, including research, development of standards for disclosure of chemicals used in hydraulic fracturing on public lands, and other steps to address risks to air and water. Following the Blueprint, while also emphasizing the additional multiple uses of public lands, is consistent with the direction of the BLM’s oil and gas reforms.

How we know this policy change is working:
Focusing not only on increasing production but also on protecting the environment has contributed to a reduction in legal protests of lease sales, which has led to faster issuance of leases while protecting areas that should not be leased. At the same time, production of oil and gas from the public lands remain at high levels.
Policy change #3: A new planning tool, Master Leasing Plans, provides an opportunity for more responsible and efficient development, but requires formal agency support

Developed as part of the 2010 oil and gas leasing reforms, Master Leasing Plans (MLPs) are intended to give BLM managers a way to “identify and address potential resource conflicts and environmental impacts from development” at a landscape level. Through an MLP, the agency can conduct a more detailed evaluation of development and prescribe both areas suitable for energy development—and how development will proceed in those areas—and areas where recreation, wildlife and wilderness values should take precedence.

This additional level of evaluation is important because resource management plans (RMPs) make general allocations for all uses across an entire field office and, “while an RMP may designate land as ‘open’ to possible leasing, such a designation does not mandate leasing.” MLPs will establish more clarity and certainty for both those seeking to protect places for wildlife and recreation and those seeking to lease and drill, reducing conflict and ultimately improving the efficiency of development. This approach is comparable to the negotiated development agreements reached between conservation groups and the oil and gas industry in places like Utah’s West Tavaputs Plateau and Greater Natural Buttes, which have led to workable paths forward to balance conservation and development.

BLM is officially evaluating 17 MLPs in four states [see map on next page] and others have been proposed. MLPs are being prepared in ongoing RMP revisions and also during standalone processes outside of any RMP revision. Unfortunately, the values of and options for using MLPs are not being fully evaluated in many of the places where the agency committed to preparing them. In Colorado, for instance, the BLM will only commit to conducting “MLP-like” analysis and has declined to formally acknowledge either its obligation or its discretion to prepare MLPs in the plans (for the Grand Junction, White River, Kremmling and Little Snake Field Offices) where they are formally under consideration. Strong guidance regarding use of this tool is needed. With surplus lease acreage and drilling permits, as well as reduced interest in leasing on public lands, BLM can and should plan ahead to continue to reduce conflicts and environmental damage, and support responsible development.

How we know this policy change is working, but could work better:
Planning for oil and gas development at the landscape level can avoid conflict and improve processes for leasing and permitting, as has already been seen with the reductions in protests under the leasing reforms and the success of negotiated development agreements for two recent natural gas projects in Utah. In light of the current stockpile of both leased acreage and unused drilling permits, as well as reduced nominations for new leasing due to the fall in natural gas prices, this is an opportune time to plan the next phases of development – and the BLM should embrace the opportunity, instead of dragging its feet, in order to see the benefits from MLPs.
Legend
1 – Dinosaur Lowlands (CO)
2 – Eastern Book Cliffs / Piceance Basin (CO)
3 – Greater Adobe Town (CO)
4 – Shale Ridges and Canyons (CO)
5 – North Park (CO)
6 – Carter (MT)
7 – Absoraka-Beartooth Front (WY)
8 – Fifteen Mile (WY)
9 – Bighorn Front (WY)
10 – Dubois (WY)
11 – Beaver Rim (WY)
12 – Greater Little Mountain (WY)
13 – Vernal (UT)
14 – Book Cliffs Divide/Grand Valley/ Cisco Desert (UT)
15 – San Rafael River (UT)
16 – Moab (UT)
17 – Glen Canyon / San Juan River (UT)
Case Study

Lessons learned from the impacts to air quality and wildlife from oil and gas development in the Pinedale, Wyoming area show the importance of planning development carefully before the consequences cannot be managed.

Impacts to mule deer and air quality around the Jonah and Pinedale Anticline gas fields near Pinedale, Wyoming have been well-documented, with ongoing declines to mule deer populations and dangerous ozone levels both linked to this activity.¹ In response to those impacts, the 2008 plan for the Pinedale Anticline prescribes zoning of concentrated development so that it could be “phased” in, while leaving other areas undeveloped for wildlife use.¹ However, development of the field was not restricted during preparation of the plan, the new prescriptions were not put in place until 2008, ongoing drilling throughout the area to “delineate” the field continued for two years, and emission controls have yet to be fully implemented. As a result, the impacts to mule deer and air quality continued, and negated much of the promise and conservation benefit of the Pinedale Anticline plan.

The ongoing declines in air quality and mule deer populations in the Pinedale area exemplify the risks of inadequate pre-project planning for oil and gas development. Landscape level planning for oil and gas development (which includes obtaining baseline data on wildlife, air and water quality, and specifying actions that will be taken if these resources are impacted) before that development hits critical levels for other resources – air and wildlife in this case – is vital. Preparation of Master Leasing Plans, as a way to plan development in landscapes with important resource values, can build on these lessons from the Pinedale area, but only if they are used.

Jonah Field, WY
Photo by: Peter Aengst
Policy change #4: BLM’s Greater sage-grouse planning effort provides an important opportunity to both conserve this imperiled species and responsibly manage oil and gas development on public lands

The sagebrush ecosystem that covers much of the public lands in the West supports not only Greater sage-grouse, but also hundreds of other species and natural systems, making its conservation key to the survival of western landscapes and wildlife. The U.S. Fish and Wildlife Service has stated its intent to make a decision on listing the Greater sage-grouse under the Endangered Species Act by 2015. Hoping to avoid such a listing, the BLM is now engaged in its own conservation efforts as “the steward of more than half of all remaining sagebrush habitat in the United States, ranging up to 47 million acres of land.” xiv

At this point, the BLM is engaged in a process to revise management plans across 10 states to incorporate conservation measures and has issued guidance for both interim management (IM 2012-043”) and land use planning (IM 2012-044”). The interim management approach requires a harder look at activities in areas identified as “preliminary priority habitat” and will be vital for ensuring that the conservation measures ultimately incorporated into BLM land use plans will be meaningful in the three years that the agency believes will be needed to develop and adopt them. The planning guidance also includes recommendations from a National Technical Team specially convened for this process and provides science-based recommendations that must be taken into account.

The agency’s large-scale, proactive approach, which includes planning with the Forest Service and cooperating with both the U.S. Fish and Wildlife Service and state wildlife agencies, has a real chance for success and is preferable to simply waiting for the direction that will come from a listing decision. Many of the Master Leasing Plans under consideration by the BLM contain substantial sage-grouse habitat, so management of oil and gas development can be structured with needed conservation measures.

How we know this policy change is working, but could work better:
BLM has avoided leasing in core Greater sage-grouse habitat in many areas, while still leasing millions of acres nominated for sale. Recent nominations in Greater sage-grouse core habitat have been increasing, however, and there has been some leasing in key habitat areas, which undermine the overall commitments the agency has made to both a more balanced approach to leasing and sage-grouse conservation. In addition, the agency has yet to update its guidance pertaining to Gunnison sage-grouse.
Policy change #5: BLM’s guidance on inventorying and management of lands with wilderness characteristics provides direction to BLM for acknowledging and conserving this important resource, but the value of identifying and protecting wildlands requires ongoing emphasis

Instruction Memorandum (IM) 2011-154 sets out the requirement for the agency to “conduct and maintain inventories regarding the presence or absence of wilderness characteristics, and to consider identified lands with wilderness characteristics in land use plans and when analyzing projects under the National Environmental Policy Act (NEPA).”

The BLM has subsequently formalized the attachments to the IM into its policy manual (sections 6310 and 6320), which require the agency to update inventories of lands with wilderness characteristics, consider a range of alternatives for protecting wilderness characteristics (including closing areas to oil and gas development), and evaluating both how wilderness characteristics might be harmed by other activities and how protecting wilderness characteristics can benefit other resources. In addition, BLM field offices have been directed to make inventories of lands with wilderness characteristics publicly available as they are completed, providing another important source of data to the agency and stakeholders.

Taken together, this guidance can support the evaluation of conflicts and opportunities for including important protections in both Master Leasing Plans and individual leasing decisions, and should be used to clearly identify the values of protecting lands with wilderness characteristics.

How we know this policy change is working, but could work better:

BLM has avoided leasing in some lands with wilderness characteristics and is continuing to identify and evaluate impacts to these lands, while still leasing millions of acres nominated for sale. This approach has contributed to a reduction in legal protests of lease sales, which has led to faster issuance of leases while protecting areas that should not be leased. At the same time, production of oil and gas from the public lands remain at high levels. BLM has not been uniformly complying with the new guidance, however, by ignoring the presence of wilderness characteristics or leasing without considering protections, which undermines the agency’s guidance and leads to more lease sale protests.
Policy change #6: Leasing and drilling are becoming more transparent, although significant gaps remain

The agency has instituted two new efforts that can provide insight into leasing and drilling on public lands: an automated tracking system and proposed rules around hydraulic fracturing.

Tracking System: The BLM recently announced a new “automated tracking system” that will standardize data tracking methods, providing the public, industry and others with more reliable and timely data on public lands leasing.xviii The BLM expects the system to greatly reduce—by as much as two-thirds—the time for reviewing and issuing leases and permits, with operators able to obtain most drilling permits in 60 days or fewer, absent unusual circumstances or unforeseen environmental impacts.xix This system is apparently aimed at addressing the oil and gas industry’s complaints that the BLM takes too long to issue oil and gas leases and drilling permits, which is curious, given that the industry has under lease, but is not utilizing, tens of millions of acres of leases and thousands of drilling permits.xx The system does not, however, allow the BLM to track whether leases are developed or drilling permits are used—a vital statistic given the huge surplus of undeveloped leased acres and unused drilling permits, as well as the significant agency resources already dedicated to lease sales and permit review.

Hydraulic Fracturing Regulation: The BLM has proposed a new rule to regulate the use of hydraulic fracturing, a process used to stimulate production from oil and gas wells, which has seen increased use, which would “provide disclosure to the public of chemicals used in hydraulic fracturing on public land and Indian land, strengthen regulations related to well-bore integrity, and address issues related to flowback water.”xxi The agency acknowledges that: “This rule is necessary to provide useful information to the public and to assure that hydraulic fracturing is conducted in a way that adequately protects the environment.”xxii However, the rule only requires disclosure of the contents of these chemicals after they are used in fracturing operations, involving significant volumes of fluids injected deep beneath the surface—a delay that seriously undermines the value of the disclosure for protecting both human health and the other resources of the public lands.

How we know this policy change could work:
If implemented as the BLM envisions, the new automated tracking system should reduce the amount of time it currently takes for the industry to receive oil and gas leases and drilling permits, which should also be based on environmentally sound decisions, in light of the other reforms enacted. If BLM also tracks industry use of permits and leased acreage, then the agency could ensure that the public lands are being used most effectively, instead of allowing industry to continue stockpiling leases and permits. Similarly, if revised to require up-front disclosure of chemicals, the regulation of hydraulic fracturing could provide better protections to the water resources upon which people and wildlife depend, as well as the other values of the public lands.

Stiles Report
Recommendations

“... the BLM should take a greater role in identifying which parcels should be offered for lease and an interdisciplinary process should be used in identifying these parcels. Parcel configuration should be by the BLM’s choice rather than the result of screening out various pieces that may have been nominated by industry since the ultimate configuration of a parcel in itself may result in unnecessary environmental effects and may not be in the interest of orderly development.”

Further, the “presence of a sizeable backlog of nominated lease parcels greatly increases the pressure placed on BLM staff in terms of time to complete the work and perceived political leverage.”

“There is a need to develop a process to adequately reflect the needs of other resources as identified in each field office’s RMP during the lease formulation process.”
Policy change #7: Increased public and stakeholder participation are contributing to BLM refining its leasing decisions and better addressing potential environmental harms and conflict (and the attendant delays)

The public and stakeholders have traditionally had little say about oil and gas leasing on the public lands, because the leasing process was driven largely by industry. It was the industry that selected and nominated areas for leasing, with the BLM responding to those nominations. And it was the industry that directly benefitted from the lack of consultation with the public and stakeholders over those nominations; in most cases, the overwhelming majority of lease nominations were ultimately offered for sale by the BLM. Thus, lease sales usually reflected the industry’s priorities, rather than a thoughtful balancing of interests—public and private—and the BLM’s multiple use responsibilities. Moreover, the public is frequently criticized for protesting lease sales; yet, under the old leasing system, filing a protest (or litigation) was really the only opportunity available to the public to raise concerns for lease sales, and assure that the BLM was adequately fulfilling its other statutory responsibilities. It is not surprising, then, that nearly 75 percent of the leases offered by the BLM in CO, NM, UT and WY between FY 2007 and 2009 were protested.

One of the central goals of IM 2010-117 is to provide the public and stakeholders with more and better opportunities to participate in the oil and gas leasing process, so that among other things the acrimonious disputes over where development takes place and under what conditions can be avoided. Accordingly, as required by the IM, the BLM is now drafting a NEPA analysis of each proposed lease sale; that analysis is available for public review and comment for 30 days. Also, each state office has created a leasing website, where the public can access NEPA documents, lease sale maps and other useful information that was difficult, if not impossible, to access in the past. Finally, beyond the NEPA process, the BLM is involving the public in a variety of meaningful ways. It is hosting public site visits to areas nominated for leasing in order to review and discuss resource conditions on the ground. It is also preparing MLPs in response to public nominations or site-specific concerns for leasing.

In addition to involving the public to a greater degree, the BLM is also doing a much better job of engaging key government stakeholders in the leasing process. Many field offices are inviting staff from the National Park Service, state game and fish departments and other state, federal and local agencies to attend site visits and meetings where the merits of leasing nominations are evaluated. Additionally, the BLM is increasingly heeding the expert opinions of stakeholders—deferring parcels or adding additional stipulations based on outside agency recommendations. Finally, the BLM is meeting with key stakeholders early in the planning process for many of the MLPs.

How we know this policy change is working:

The BLM is now providing the public and key stakeholders with numerous opportunities to participate in the leasing process. Additionally, the BLM is exceeding the requirements of IM 2010-117 by providing various opportunities for engagement outside of the NEPA process. This has improved the decision making process from an environmental standpoint, and has also reduced the number of protests being filed over lease sales and sped up the time for issuing leases to industry.
BLM Leasing Reforms - By the Numbers

Key policy changes have improved the oil and gas leasing and development process and continue to do so – data analysis shows successes to date and room to keep working

- Protests of lease sales have declined radically in the Rockies
- Leases are being issued with fewer delays
- Leasing nominations have declined, so there are comparably fewer leases being sold
- Leasing deferrals show that BLM is taking other resources into account, although the vast majority of nominated parcels are still being leased
- Production of oil and gas from the public lands are at levels comparable to those from the last administration
- The oil and gas industry has a surplus of leased federal lands available for production and unused drilling permits

Protests of lease sales have declined radically in the Rockies

The leasing reforms are reducing conflict over leasing decisions on the public lands in the Rockies, where protests and conflict over leasing have been commonplace. In the Rocky Mountain region, the amount of leases protested has declined significantly since the reforms were adopted to 25 percent of parcels posted in lease sales in calendar year 2011 and 16 percent thus far in calendar year 2012. National levels of protested leases are even lower.

The Government Accountability Office (GAO) analyzed available data on protests of BLM lease sales and concluded that “most parcels were protested” from fiscal years 2007 to 2009. In looking at the parcels actually sold, in this table from the GAO report, GAO found 74 percent of lease parcels were protested.

![Table 2: Protest Information on Parcels Whose Leases Were Competitively Sold, by State Office, Fiscal Years 2007-2009](source)

<table>
<thead>
<tr>
<th>BLM state office</th>
<th>Parcels with competitively sold leases</th>
<th>Parcels protested</th>
<th>Percentage protested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado</td>
<td>677</td>
<td>690</td>
<td>93</td>
</tr>
<tr>
<td>New Mexico</td>
<td>1,008</td>
<td>575</td>
<td>57</td>
</tr>
<tr>
<td>Utah</td>
<td>624</td>
<td>478</td>
<td>77</td>
</tr>
<tr>
<td>Wyoming</td>
<td>2,745</td>
<td>2,043</td>
<td>74</td>
</tr>
<tr>
<td>Total</td>
<td>5,054</td>
<td>3,726</td>
<td>74</td>
</tr>
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Source: GAO analysis of BLM data.

However, evaluating leases sold at auction does not address protests filed on lease parcels that were originally posted for sale, protested, and then removed from the final sale. Consequently, GAO conducted a more in-depth analysis of twelve lease sales where data was available to look at the percentage of parcels protested based on those that were
originally posted for sale, and, as shown in this table from the GAO report, found 83 percent of leases posted were actually protested. xxxi

An evaluation of lease sales conducted in calendar year 2011 and through 2012 to date shows radical reductions in protests, with 25 percent of posted lease sales protested in 2011 and 16 percent thus far in 2012 for the Rockies, and just 10 percent protested in 2011 and 12 percent protested so far in 2012 nationally. xxxii

<table>
<thead>
<tr>
<th>BLM state office</th>
<th>Parcels in lease sale notices</th>
<th>Parcels protested</th>
<th>Percentage protested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colorado</td>
<td>193</td>
<td>173</td>
<td>90</td>
</tr>
<tr>
<td>New Mexico</td>
<td>281</td>
<td>205</td>
<td>73</td>
</tr>
<tr>
<td>Utah</td>
<td>201</td>
<td>198</td>
<td>99</td>
</tr>
<tr>
<td>Wyoming</td>
<td>569</td>
<td>459</td>
<td>81</td>
</tr>
<tr>
<td><strong>Total (CO, MT, NM, UT, WY)</strong></td>
<td><strong>1,244</strong></td>
<td><strong>1,035</strong></td>
<td><strong>83</strong></td>
</tr>
</tbody>
</table>

*Source: GAO analysis of protest data obtained from BLM state offices.*

| Percentage of Parcels in Lease Sale Notices Protested, Calendar Years 2011-2012 |
|---------------------------------------------------|-------------------|------------------|
| CY 2011 | CY 2012 |
| COLORADO | 64 | 93 |
| MONTANA* | 9 | 0 |
| NEW MEXICO** | 0 | 23 |
| UTAH | 23 | 0 |
| WYOMING | 44 | 20 |
| **TOTAL (CO, MT, NM, UT, WY)** | 25 | 16 |
| **NATIONAL TOTAL** | 10 | 12 |

*Totals for Montana include some parcels that were offered in North Dakota and South Dakota.

**Totals for New Mexico include some parcels that were offered in Oklahoma and Texas.*
Leases are being issued with fewer delays

In addition to reducing conflicts over leasing on public lands, the reforms are also speeding up the lease issuance process. In the past, the BLM routinely failed to resolve protests and issue leases in a timely fashion. Since the reforms were announced, however, the BLM has processed significant leasing backlogs in Utah and Wyoming and has resolved virtually every protest prior to lease sales. As a result, companies are now receiving their leases within one or two months of lease sales.

- Prior to the leasing reforms, issuance of leases were routinely delayed. For instance:
  - Between FY 2007 and FY 2009 in CO, NM, UT and WY, BLM took longer than 60 days to issue 91% of protested parcels, while less than 2 percent of non-protested parcels were delayed this long.
  - As of March 2010, many protested leases (approximately 1,200) sold between FY2007 and FY 2009 had not been issued.
- BLM has been working to address delays in leasing due to protests (which have also declined since the leasing reforms were implemented):
  - By April 2011, BLM had almost cleared the backlog of protested leases in WY.
  - The leasing reforms require BLM to resolve all protests prior to sales. That has happened almost without exception, so unresolved protests are no longer delaying issuance of leases.

Leasing nominations have declined, so there are comparably fewer leases being sold

Industry often complains that not enough public lands are being leased for oil and gas development. However, what the industry fails to explain is that the amount of land nominated for leasing by industry has declined dramatically over the past few years. In just the five Rocky Mountain States, the amount of land nominated for leasing has declined by nearly 67 percent since Fiscal Year 2006. This downward trend is likely explained by declining natural gas prices, which are at a ten-year low. With less interest in development, there will necessarily be declines in leasing and production from the public lands.

Nonetheless, the BLM is actually leasing a higher percentage of lands nominated by the industry than it did in FY 2008.
Leasing deferrals show that BLM is taking other resources into account, although the vast majority of nominated parcels are still being leased

Leasing the public lands for oil and gas development is a discretionary activity under the Mineral Leasing Act. By law, other values of the public lands—wildlife, water supplies and outdoor recreation, for instance—must be weighed and given equal consideration. Contrary to the tired rhetoric of industry and its allies, legally there is “no presumed preference” for oil and gas activity on the public lands. These are the public’s lands, and should be managed to protect the public interest in abundant wildlife, safe drinking water and outdoor recreation, not just for the sole and exclusive benefit of the oil and gas industry; in fact, the BLM’s organic statute obligates the BLM to manage the public lands for these and other benefits.

Accordingly, since the reforms were announced, the BLM has wisely chosen not to lease hundreds of thousands of acres of critical wildlife habitat, municipal watersheds and recreation areas, along with other areas prized by the public for their natural and cultural values. The oil and gas industry, apparently trying to undermine this common sense approach, is increasingly targeting critical wildlife habitat, historic resources and even rural subdivisions and municipal water sources for leasing—massive tracts of lands, in some cases, where if leasing happens at all, it must proceed slowly and carefully. Thus, it should come as no surprise that where industry’s leasing nominations will harm important values of the public lands, the BLM is usually denying such nominations.

Since May 2010, significant deferrals have taken place of proposed leases that raised conflicts and environmental consequences for values such as wildlife, wilderness characteristics and roadless areas, core sage-grouse habitat, municipal water sources and recreation. For example, the BLM is not leasing lands with wilderness characteristics within the Bighorn Basin planning area in Wyoming and White River field office in Colorado, which are currently being evaluated in compliance with current guidance and ongoing planning efforts. Additionally, the BLM has deferred leasing parcels where development could endanger municipal water supplies, such as for the City of Aurora Colorado.

Unfortunately, industry is increasingly targeting proposed conservation areas for leasing. For example:

- **Sage-Grouse Core Area/Priority and General Habitat**: The industry continues to nominate parcels in sage-grouse core area and other key habitat being considered for protection in the BLM’s national sage-grouse planning process. Complete data is not currently available; however, the following examples from recent lease sales highlights the targeting of sage-grouse core area and other key habitat for leasing:
  - **WY’s 05/12 lease sale**: At least 184,436 acres nominated for leasing in sage-grouse core area.
  - **WY’s 08/12 lease sale**: Approximately 258 parcels (acreage unknown)—65 percent of the total number of nominated parcels—nominated in sage-grouse core area.
  - **CO’s 05/12 lease sale**: Approximately 19 parcels (acreage unknown)—48 percent of the total number of nominated parcels—nominated in “priority” or “general” sage-grouse habitat.
  - **MT’s 10/12 lease sale**: Approximately 305 parcels (acreage unknown)—55 percent of the total number of nominated parcels—nominated in or adjacent to “priority” sage-grouse habitat.

- **Lander Draft RMP Proposed Conservation Measures**: Between 150,000 and 200,000 acres nominated in the Heritage Tourism and Recreation Management Corridor (HTRMC) and 74,903 acres nominated in the Beaver Rim MLP area. The HTRMC and Beaver Rim MLP are included in the preferred alternative of the Lander Draft RMP, which the BLM issued in Sept. 2011, and would protect national historic trails, core sage-grouse habitat and other important natural and cultural values.
Production of oil and gas from the public lands are at levels comparable to those from the last administration

Levels of both oil and gas production are well within ranges from the last administration.\textsuperscript{xlvi}

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<thead>
<tr>
<th>FEDERAL ONSHORE SALES VOLUME</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>FY06</td>
</tr>
<tr>
<td>FY07</td>
</tr>
<tr>
<td>FY08</td>
</tr>
<tr>
<td>FY09</td>
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<tr>
<td>FY10</td>
</tr>
<tr>
<td>FY11</td>
</tr>
</tbody>
</table>

The oil and gas industry has a surplus of leased federal lands available for production and unused drilling permits

Currently, the oil and gas industry has tens of millions of acres of federal onshore lands under lease and thousands of approved federal permits to drill that are not being used. In addition, the BLM continues to permit leasing on the overwhelming majority of its lands and is projecting substantial levels of drilling. Now is the time to ensure that oil and gas development of these vast acreages of public lands occurs sustainably.

- Two-thirds of leased lands are not producing oil or natural gas. As of the end of Fiscal Year 2011, there were more than 38 million acres under lease, but just over 12 million (less than one-third) in production.\textsuperscript{xlvii}
- Thousands of federal drilling permits have been issued but not used. As of the end of FY 2011, the industry was also holding more than 7,000 authorized permits to drill (essentially green-lighted development) that they were not using.\textsuperscript{xlviii}
- Up to 90 percent of BLM lands in the Rockies are open to leasing. [see table below]
- More than 25,000 new wells are projected within the next 15-20 years and close to 5 million acres are open to oil and gas development in Northwest Colorado alone.

<table>
<thead>
<tr>
<th>Resource Management Plan</th>
<th>Projected Wells</th>
<th>Acreage Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roan Plateau</td>
<td>1,570 wells</td>
<td>52,268</td>
</tr>
<tr>
<td>Little Snake</td>
<td>3,031 wells</td>
<td>1,945,461</td>
</tr>
<tr>
<td>White River</td>
<td>15,000 wells</td>
<td>1,620,000</td>
</tr>
<tr>
<td>Colorado River Valley</td>
<td>5,318 wells</td>
<td>651,400</td>
</tr>
<tr>
<td>Kremmling</td>
<td>192 wells</td>
<td>625,200</td>
</tr>
<tr>
<td>NW CO Total</td>
<td>25,111 wells</td>
<td>4,894,329</td>
</tr>
</tbody>
</table>
Conclusions and Recommendations

The reforms adopted by the Department of the Interior in response to the Stiles Report are returning balance to the onshore oil and gas leasing program – a program that appeared to be permanently broken just a few years ago. Areas prized by the public for their wildlife, recreational, or aesthetic values are increasingly being avoided. When leasing does occur in areas that could threaten other resources and uses, the BLM is taking additional steps—through the preparation of MLPs, for example—to ensure that protective measures are in place.

Additionally, the reforms are continuing to provide more than adequate access for the oil and gas industry, as shown by the millions of acres currently under lease and millions more available for leasing. The reduction in protests is also providing industry with the certainty that leasing can move forward in appropriate areas. As well, production of natural gas and oil from public lands has remained relatively constant since the Department of the Interior adopted the reforms.

While important progress has been made under the reforms, additional work is required to make the reforms successful and to provide a lasting “fix” to the onshore oil and gas leasing and development program, including:

- Overall, continue to emphasize the role of the BLM as steward of the public lands so that all resources and uses must be taken into account prior to oil and gas leasing and development – these are multiple use lands, not oil and gas industry lands. Ensure that adequate opportunity and consideration is given to protecting wildlife, wilderness, recreation, national parks and national monuments, air and water in making decisions regarding oil and gas management through guidance and oversight of the leasing reforms and agency action, in general.

- Issue and implement national guidance setting out procedures and standards for preparing Master Leasing Plans. Such guidance is critical to ensuring that MLPs are consistently and effectively prepared.

- Reinforce the agency’s commitment to preparing MLPs, especially in Colorado, where the BLM has only agreed to prepare wholly inadequate “MLP-like” substitutes.

- Take immediate action to protect core sage-grouse habitat from leasing, while imposing binding conservation measures for development of current leases and incorporating a comprehensive conservation approach through ongoing land use plan amendments to ensure the survival and recovery of the Greater sage-grouse. Guidance on Gunnison sage-grouse, which is also impacted by oil and gas development, should also be updated.

- Continue to inventory lands with wilderness characteristics prior to authorizing leasing and development, including in ongoing land use and project planning, and make the results of those inventories publicly available.

- When lands with wilderness characteristics are identified, the BLM must emphasize the protection of those characteristics in authorizing actions and, where land use planning is underway, defer taking action until protections for wilderness characteristics can be fully evaluated during the land use planning process.

- Continue to refine its systems for tracking and sharing data on oil and gas leasing, development and production. In particular, the BLM must develop accurate methods for tracking the amount of public lands currently being used for oil and gas development and the use of permits issued, so that unused leases and permits can be used as indicators of whether more leasing is needed.
For more information about this report or our findings, please contact:

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References cited in report:

2. In March 2012, former BLM Director Bob Abbey testified to a Senate committee that the Administration “inherited an onshore oil and gas program that was on the verge of collapse.” http://rlch.org/news/drilling-leaves-fed-lands-because-state-private-acres-are-cheaper-says-blm-chief
5. IM 2010-117 provided the BLM with one year to fully implement the reforms.
6. This framework is drawn from the Federal Land Policy and Management Act, which requires the BLM to manage the public lands in accordance with “the principles of multiple use and sustained yield” and “in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources, and archaeological values. . . .” 43 U.S.C. § 1712(c)(1). As one federal circuit court has stated, “[i]t is past doubt that the principle of multiple use does not require the BLM to prioritize development over other uses.” New Mexico ex rel. Richardson v. BLM, 565 F.3d 683, 710 (10th Cir. 2009).
11. Id.
20. Id.
20EA_Jan%202012%20Lease%20Sale.pdf at 6; inviting stakeholders to attend site visits

See, e.g., deferring parcels pending completion of stakeholder review/consultations

Source BLM (online citation not available).


xxxii Id. at 14.
xxxiii Id. at 15.

BLM oil and gas statistics, available at:
http://www.pressconnects.com/article/20120329/NEWS11/120329023/Natural-gas-price-drops-10-year-low-?odyssey=mod%7Cnewswell%7Ctext%7CLocal%20News%7Cp&nclick_check=1


43 U.S.C. §§ 1701(7)-(8), 1702(c).
Data collected from several publications associated with WY’s 08/12 lease sale. Publications available here:
http://www.onrr.gov/ONRRWebStats/Home.aspx

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