

United States Department of the Interior
Bureau of Land Management

Determination of NEPA Adequacy DOI-BLM-MT-C030-2015-
223-DNA

January 26, 2016

Project Title: Competitive Oil and Gas Lease Sale, January 26, 2016 Sale

Location: North Dakota Field Office (see Attachment 1 for lease parcel list
by number and legal description and Attachment 4 for Parcel Map)



BLM Office: North Dakota Field Office

NEPA Number: DOI-BLM-MT-C030-2015-0223-DNA

Proposed Action Title/Type: Oil and Gas Lease Sale Parcel, January 26, 2016 Sale

Location/Legal Description:

T. 153 N, R. 102 W, 5TH PM, ND
SEC. 16 RR ROW;
WILLIAMS COUNTY
19.45 Acres

Background:

It is the policy of the Bureau of Land Management (BLM) to make mineral resources available for use and to encourage development of mineral resources to meet national, regional, and local needs. This policy is based on various laws, including the Mineral Leasing Act of 1920 and the Federal Land Policy and Management Act of 1976. The Federal Onshore Oil and Gas Leasing Reform Act of 1987 Sec. 5102(a)(b)(1)(A) directs the BLM to conduct quarterly oil and gas lease sales in each state whenever eligible lands are available for leasing. The Montana State Office conducts mineral estate lease auctions for lands managed by the Federal Government, whether the surface is managed by the Department of the Interior (BLM or Bureau of Reclamation), United States Forest Service, or other departments and agencies. In some cases the BLM holds subsurface mineral rights on split estate lands where the surface estate is owned by another party, other than the Federal Government. Federal mineral leases can be sold on such lands as well.

Members of the public file Expressions of Interest (EOI) to nominate parcels for leasing by the BLM. From these EOIs, the Montana State Office provides draft parcel lists to the appropriate field offices for review. The BLM field offices then review legal descriptions of nominated parcels to determine: if they are in areas open to leasing; if new information has come to light which might change previous analyses conducted during the land use planning process; if there are special resource conditions of which potential bidders should be made aware; and which stipulations should be identified and included as part of a lease. Ultimately, all of the lands in proposed lease sales are nominated by private individuals, companies, or the BLM, and therefore represent areas of high interest.

At the time of this review it is unknown whether a particular parcel will be sold and a lease issued. It is unknown when, where, or if future well sites, roads, and facilities might be proposed. Detailed site-specific analysis and mitigation of activities associated with any particular lease would occur when a lease holder submits an application for permit to drill (APD). Site-specific mitigation and reclamation measures would be described in the conditions of approval (COAs).

A. Description of the Proposed Action

The Proposed Action would be to offer one (1) lease parcel of Federal minerals for oil and gas leasing, in Williams County, covering 19.45 Federal mineral acres (19.45 acres of BLM administered surface), in conformance with the existing land use planning decisions. The terms and conditions of the standard federal lease and federal regulations would apply to the parcel offered for sale. Parcel number, size, detailed legal land descriptions, and associated stipulations to be included with the parcel offered for sale are listed in Attachment 1. Attachment 4 indicates the location of the parcel.

Applicant: BLM

County: Williams County

DNA Originator: Paul Kelley - Natural Resource Specialist (NRS)/Project Lead

B. Land Use Plan (LUP) Conformance

LUP Name* North Dakota RMP/EIS Date Approved: April 1988

Other document**July 16, 2013 Competitive Oil and Gas Lease Sale EA Date Approved: July 2013

**List applicable LUPs (for example, resource management plans; activity, project, management, or program plans; or applicable amendments thereto)*

N/A The proposed action is in conformance with the applicable LUPs because it is specifically provided for in the following LUP decisions:

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decisions (objectives, terms, and conditions).

This proposed action is in conformance with the decisions contained in the North Dakota Resource Management Plan (RMP/EIS) of April 1988, amended September 21, 2015. The North Dakota RMP is the governing land use plans for the NDFO. The lease parcel to potentially be offered for sale is within an area determined to be open to oil and gas leasing in the North Dakota RMP.

C. Identify applicable National Environmental Policy Act (NEPA) document(s) and other related documents that cover the proposed action.

List by name and date all applicable NEPA documents that cover the proposed action.

July 16, 2013 Competitive Oil and Gas Lease Sale EA, DOI-BLM-MT-C030-2013-068-EA

List by name and date other documentation relevant to the proposed action (e.g., biological assessment, biological opinion, watershed assessment, allotment evaluation and monitoring report).

Cultural Resource BLM# 15-MT030-302

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

The nominated parcel was reviewed by an interdisciplinary team of resource specialists and identified to be similar in geographic and resource conditions to those analyzed in the referenced lease sale EA above.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?

Yes, the RMP and EA analyzed appropriate alternatives with respect to the proposed action, including “No Action.”

3. Is the existing analysis valid in light of any new information or circumstances (such as rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstance would not substantially change the analysis of the new proposed action?

The existing analyses are adequate with regard to the proposed action. The Montana/Dakotas Special Status Species list was updated and finalized in August 2014. The list was revised with species being deleted, others added and delineations provided for those species considered “Special Status” for each field office. Several migratory birds and one bat were added to the list within the NDFO area. Habitat for the migratory bird species overlaps with other migratory bird species previously analyzed in the prior lease sale EA. The parcel being analyzed is highly fragmented by a state highway and a railroad ROW which compromises the value of the habitat. Applying the conditions of approval specific for migratory birds to the APD would provide the needed protections for any of the migratory bird species listed in the updated 2014 Montana/Dakotas Special Status Species list. The parcel is not suitable habitat to any endangered species listed for Williams County and leasing of the federal minerals would have no effect on them.

4. Are the direct, indirect and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Yes, the proposed action would have the same direct and indirect impacts as those analyzed in the referenced EA and also included in the RMP. Similar to the referenced EA, the addition of CR 16-1 lease stipulation, may require the lessee to implement specific measures to reduce impacts of oil and gas operations on historic properties and resources. These measures would be identified during the on-site inspection and environmental review of the APD or Sundry Notice.

The analysis and mitigation identified for the historic properties in July 16, 2013 referenced EA is the same identified in this proposed action. Section 4.8. 1 and 4.9.1 of the referenced EA document that surface disturbance associated with exploration and development activities have the potential to affect sites potentially eligible for the National Register of Historic Places (NRHP). As documented in Section 4.8.1 and 4.9.1 of the referenced EA, applying standard lease terms and stipulations provide mechanisms to protect vulnerable significant cultural resource values and implementation of these stipulations at the development stage would provide the necessary measures to protect cultural resources. Therefore, similar to the referenced EA, the lease parcel received stipulation Cultural Resources 16-1.

Any potential effects on resources from the sale of leases would occur during lease exploration and development activities, which would be subject to future BLM decision-making and NEPA analysis upon receipt of an APD or Sundry Notice. At that time, BLM would ensure compliance with laws, regulations, and land use plans. Specifically for National Land Marks, BLM would ensure compliance with 16 U.S.C.470h-2(f) of the National Historic Preservation Act and coordinate with surface management entities as necessary.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes, the RMP/FEIS had public and interagency review in their analyses. In addition, the public had opportunity to participate in a 15-day scoping and 30-day public comment periods on the referenced EA and this proposed action (See Attachment 3 for summary). A protest period was also completed for the referenced EA. The BLM also sent letters to for the 15-day scoping and 30-day public comment period inviting them to submit comments on the parcels proposed in the referenced lease sale EA and on this proposed action.

E. Interdisciplinary Analysis: Identify those team members participating in the lease sale process.

| Name | Title | Responsibility |
|-----------------|---------------------------------|---|
| Paul Kelley | Natural Resource Specialist | Project Lead, Document Preparer, Forestry, Soils, Vegetation, Recreation, VRM, Travel Management, Water Resources |
| Tim Zachmeier | Wildlife Biologist | Wildlife, Special Status Species |
| Justin Peters | Archeologist | Cultural/Special Designations/Native American Religious Concerns |
| Seth Jackson | Realty Specialist | Lands and Realty |
| Greg Liggett | Paleontology | Paleontology |
| Dorothy Van Oss | Geologist | Solid Minerals |
| Susan Bassett | Air Specialist | Air Resources |
| Carmen Drieling | Rangeland Management Specialist | Livestock Grazing |
| Allen Ollila | Fluid Minerals | Fluid Minerals |
| Jessica Montag | Social Analyst | Economics/Social and Environmental Justice |
| Jen Frazer | Natural Resource Specialist | GIS |
| Corrinne Walter | IT Specialist | IT Specialist |


F. Mitigation Measures: List any applicable mitigation measures that were identified, analyzed, and approved in relevant LUPs and existing NEPA document(s). List the specific mitigation measures or identify an attachment that includes those specific mitigation measures. Document that these applicable mitigation measures must be incorporated and implemented.

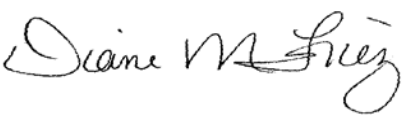
See Attachments 1 and 2 for stipulations to be applied upon lease issuance.

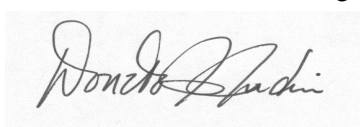
CONCLUSION

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitute BLM's compliance with the requirements of NEPA.

Note: If one or more of the criteria are not met, a conclusion of conformance and/or NEPA adequacy cannot be made and this box cannot be checked.

Recommended by  _____ Date 1/8/16
Loren Wickstrom, Field Manager

Concurrence by  _____ Date 1/13/16
Diane M. Friez, District Manager

Approval by  _____ Date _____
Donato Judice, Deputy State Director – Division of Energy, Minerals,
and Realty

Note: The signed conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on the DNA is subject to protest or appeal under 43 CFR Part 4 and the program specific regulations.

Attachment 1. Location of proposed parcel with proposed lease stipulations to be applied upon lease issuance.

| PARCEL NUMBER | PARCEL DESCRIPTION | PROPOSED STIPULATIONS FOR ENTIRE PARCEL IF LEASED | PROPOSED FOR DEFERRAL-NO LEASING |
|----------------------|--|---|---|
| NDM 97300-T6 | T. 153 N, R. 102 W, 5TH PM, ND SEC. 16 RR ROW; WILLIAMS COUNTY 19.45 AC PD | CR 16-1 (ALL LANDS) CSU 12-5 (ALL LANDS) LN 14-12 (ALL LANDS) STANDARD 16-3 (ALL LANDS) TES 16-2 (ALL LANDS) | |

Attachment 2. Stipulation Key

| Stipulation Number | Stipulation Name/Brief Description |
|---------------------------|---|
| CR 16-1 | <p>CULTURAL RESOURCES LEASE STIPULATION This lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O. 13007, or other statutes and executive orders. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities.</p> |
| CSU 12-5 | <p>CONTROLLED SURFACE USE STIPULATION Surface occupancy or use is subject to the following special operating constraint: No disturbance of riparian areas of wetlands, intermittent, ephemeral, or perennial streams and rivers would be allowed except for essential road and utility crossings.</p> |
| LN 14-12 | <p>LEASE NOTICE PALEONTOLOGICAL RESOURCE INVENTORY REQUIREMENT This lease has been identified as being located within geologic units rated as being moderate to very high potential for containing significant paleontological resources. The locations meet the criteria for Class 3, 4 and/or 5 as set forth in the Potential Fossil Yield Classification System, WO IM 2008-009, Attachment 2-2. The BLM is responsible for assuring that the leased lands are examined to determine if paleontological resources are present and to specify mitigation measures. Guidance for application of this requirement can be found in WO IM 2008-009 dated October 15, 2007, and WO IM 2009-011 dated October 10, 2008. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or project proponent shall contact the BLM to determine if a paleontological resource inventory is required. If an inventory is required, the lessee or project proponent will complete the inventory subject to the following:</p> <ul style="list-style-type: none"> • the project proponent must engage the services of a qualified paleontologist, acceptable to the BLM, to conduct the inventory. • the project proponent will, at a minimum, inventory a 10-acre area or larger to incorporate possible project relocation which may result from environmental or other resource considerations. • paleontological inventory may identify resources that may require mitigation to the satisfaction of the BLM as directed by WO IM 2009-011. |
| Standard 16-3 | <p>STANDARD LEASE STIPULATION ESTHETICS--To maintain esthetic values, all surface-disturbing activities, semipermanent and permanent facilities may require special design including location, painting and camouflage to blend with the natural surroundings and meet the intent of the visual quality objectives of the Federal Surface Managing Agency (SMA). EROSION CONTROL--Surface-disturbing activities may be prohibited during muddy and/or wet soil periods. CONTROLLED OR LIMITED SURFACE USE STIPULATION --This stipulation may be modified, consistent with land use documents, when specifically approved in writing by the Bureau of Land Management (BLM) with concurrence of the SMA. Distances and/or time periods may be made less restrictive depending on the actual onground conditions. The prospective lessee should contact the SMA for more specific locations and information regarding the restrictive nature of this stipulation. The lessee/operator is given notice that the lands within this lease may include special areas and that such areas may contain special values, may be needed for special purposes, or may require special attention to prevent damage to surface and/or other resources. Possible special</p> |

| Stipulation Number | Stipulation Name/Brief Description |
|--------------------|--|
| | <p>areas are identified below. Any surface use or occupancy within such special areas will be strictly controlled, or if absolutely necessary, excluded. Use or occupancy will be restricted only when the BLM and/or the SMA demonstrates the restriction necessary for the protection of such special areas and existing or planned uses. Appropriate modifications to imposed restrictions will be made for the maintenance and operations of producing oil and gas wells. After the SMA has been advised of specific proposed surface use or occupancy on the leased lands, and on request of the lessee/operator, the Agency will furnish further data on any special areas which may include:</p> <ul style="list-style-type: none"> • 100 feet from the edge of the rights-of-way from highways, designated county roads and appropriate federally-owned or controlled roads and recreation trails. • 500 feet, or when necessary, within the 25-year flood plain from reservoirs, lakes, and ponds and intermittent, ephemeral or small perennial streams: 1,000 feet, or when necessary, within the 100-year flood plain from larger perennial streams, rivers, and domestic water supplies. • 500 feet from grouse strutting grounds. Special care to avoid nesting areas associated with strutting grounds will be necessary during the period from March 1, to June 30. One-fourth mile from identified essential habitat of state and federal sensitive species. Crucial wildlife winter ranges during the period from December 1 to May 15, and in elk calving areas during the period from May 1 to June 30. • 300 feet from occupied buildings, developed recreational areas, undeveloped recreational areas receiving concentrated public use and sites eligible for or designated as National Register sites. • Seasonal road closures, roads for special uses, specified roads during heavy traffic periods and on areas having restrictive off-road vehicle designations. • On slopes over 30 percent or 20 percent on extremely erodible or slumping soils. <p>APPLICATIONS FOR PERMIT TO DRILL (APDs)--The appropriate BLM field offices are responsible for the receipt, processing, and approval of APDs. The APDs are to be submitted by oil and gas operators pursuant to the requirements found in Onshore Oil and Gas Order No. 1 -- Approval of Operations on Onshore Federal and Indian Oil and Gas Leases (Circular No. 2538). Additional requirements for the conduct of oil and gas operations can be found in the Code of Federal Regulations Title 43, Part 3160. Copies of Onshore Oil and Gas Order No. 1, and pertinent regulations, can be obtained from the BLM field offices in which the operations are proposed. Early coordination with these offices on proposals is encouraged.</p> <p>CULTURAL AND PALEONTOLOGICAL RESOURCES--The SMA is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the SMA, shall:</p> <ul style="list-style-type: none"> • Contact the appropriate SMA to determine if a site-specific cultural resource inventory is required. If an inventory is required, then: • Engage the services of a cultural resource specialist acceptable to the SMA to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other considerations. An acceptable inventory report is to be submitted to the SMA for review and approval no later than that time when an otherwise complete application for approval of drilling or subsequent surface-disturbing operation is submitted. • Implement mitigation measures required by the SMA. Mitigation may include the relocation of proposed lease-related activities or other protective measures such as testing salvage and recordation. Where impacts to cultural resources cannot be mitigated to the satisfaction of the SMA, surface occupancy on that area must be prohibited. <p>The operator shall immediately bring to the attention of the SMA any cultural or</p> |

| Stipulation Number | Stipulation Name/Brief Description |
|---------------------------|---|
| | <p>paleontological resources discovered as a result of approved operations under this lease, and not disturb such discoveries until directed to proceed by the SMA.</p> <p>ENDANGERED OR THREATENED SPECIES--The SMA is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species, listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.</p> <p>The lessee/operator may, unless notified by the authorized officer of the SMA that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resources specialist approved by the SMA. An acceptable report must be provided to the SMA identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.</p> |
| TES 16-2 | <p>ENDANGERED SPECIES ACT SECTION 7 CONSULTATION STIPULATION</p> <p>The lease area may now or hereafter contain plants, animals or their habitats determined to be threatened, endangered or other special status species. BLM may recommend modifications to exploration and development, and require modifications to or disapprove proposed activity that is likely to result in jeopardy to proposed or listed threatened or endangered species or designated or proposed critical habitat.</p> |

Attachment 3. Summary of Public Participation

Consistent with WO IM No. 2010-117, two public review periods are conducted for each lease sale, a 15-day scoping period on the preliminary review of the nominated parcels and recommended stipulations, and a 30-day public comment period on the DNA. Coordination and/or consultation were also conducted throughout the leasing process with Tribes, external entities, and Surface Management Agencies.

Coordination with North Dakota Game and Fish (NDGF) was conducted for the lease parcel being reviewed. A letter was sent to the NDGF during the 15-day scoping period.

The BLM consults with Native Americans under Section 106 of the National Historic Preservation Act. The BLM sent letters to tribes in Montana, North Dakota, and Minnesota at the beginning of the 15-day scoping period informing them of the potential for the parcel to be leased and inviting them to submit issues and concerns BLM should consider in the environmental analysis. Letters were sent to the Tribal Presidents and THPO or other cultural contacts for the Turtle Mountain Band of the Chippewa (TMBC); the Fort Peck Tribes (FPT), the Standing Rock Sioux Tribe (SRST); the Mandan Hidatsa, and Arikara Nation (MHAN); the Spirit Lake Sioux Tribe (SLST); the Northern Cheyenne Tribe (NCT), and the Lower Sioux Indian Community (LSIC) Tribe. In addition to scoping letters, THPOs also received file search results from the preliminary review of parcels conducted by BLM. The BLM sent a second letter with a copy of the DNA to the tribes informing them about the 30 day public comment period, and to solicit any information BLM should consider before making a decision whether to offer any or all of the parcel for sale.

Public scoping for this project was conducted through a 15-day scoping period advertised on the BLM Montana State Office website, news release to surrounding area newspapers, and posting on the field office website NEPA notification log. Scoping was initiated June 29, 2015.

On August 24, 2015, the DNA was made available for a 30-day public comment period. Notification letters were distributed to external entities, local agencies, and tribes to explain that the DNA was available for review and comment. Tribes also received a copy of the DNA.

No Responses were received during the 15 day scoping period.

A total of 2 written submissions were received during the 30 day comment period. The following is a summary of some of the issues and BLM responses as a result of the 30 day public comment period:

- BLM Must Produce an Environmental Analysis or Environmental Impact Statement to Comply with NEPA. DNA has no analysis of impacts to human environment. Like prior analysis fails to analyze the climate impacts of the project. New information has come to light. A Programmatic EIS is necessary. BLM fails to describe or analyze climate impacts from its oil and gas program. A programmatic analysis at the national level is called for by the CEQ. Agency is required to “set forth a reasoned explanation” when not using programmatic analysis. Failures to apply NEPA principles in analyzing climate emissions and effects in the DNA or RMP are obvious. Actual emissions must be analyzed for lease sales. Actual estimates of emissions are required even when they are uncertain and can at best be projected. BLM failed to estimate emissions and failed to document rationale as to why not. Greenhouse gas emissions and climate impacts were not

analyzed in the RMP, here at the leasing stage, and are not being done at the APD stage. Downstream emissions should be accounted for in NEPA analysis. The analysis of emissions from burning of oil and gas must be included in the leasing NEPA analysis, which wasn't done here. If tools and information are available, BLM should disclose quantitative estimates of GHG emissions, including fossil fuel combustion. It is clear BLM has the tools and info. The DNA does not utilize these available tools and info to estimate emissions, contradicting CEQ guidance. Referenced EA has estimates of wells produced in the planning area by year and average production, and uses those numbers to estimate income and employment. This information should be used to estimate emissions. Climate emissions have never been adequately evaluated at the programmatic, RMP, leasing, or APD levels. Until BLM completes a programmatic level quantitative analysis of emissions for its oil and gas leasing program, emissions from lease sales warrant a quantitative estimate. BLM fails to analyze climate emissions and impacts. This analysis is required regardless of CEQ guidance. Agency direction to use quantitative estimates of GHG emissions has been ignored. DNA and previous EA excludes such analysis, and has not conducted programmatic analysis or included in RMP. BLM's EA's for APDs does not analyze the climate emissions on any level. The DNA must be supplemented to include an analysis of climate change and project effects on climate change using best available science and following agency guidance and the law. BLM's DNA for the January 2016 lease sale violates NEPA. Fails to draw the connection between the project and increased climate impacts and costs. BLM declines to assess impacts of climate change, promising to assess in the future. BLM violates hard look doctrine.

BLM Response: The purpose of a DNA or Determination of NEPA Adequacy is to confirm that an action is adequately analyzed in an existing document and in conformance with a land use plan. The DNA itself would not contain new environmental analysis. The act of leasing an oil and gas lease on the proposed parcels is in conformance with the RMP and associated amendments and within areas determined to be open to oil and gas leasing subject to identified stipulations in the RMP. IM No. 2010-117 Section.E. NEPA Compliance Documentation, allows BLM to use a DNA to document NEPA compliance for leasing decisions if the proposed leasing action is adequately analyzed in an existing NEPA document. BLM references one lease sale EA that adequately analyzed the proposed action on a similar parcel in a nearby area in the same Railroad Right-of-Way. The referenced EA addressed climate change impacts and greenhouse gas emissions within Sections 3.2 and 4.2 and Section 4.17.2. Incremental GHG emissions from downstream use of oil cannot be reasonably estimated. Oil may be used as fuel, as a lubricant, or as feedstock for chemical or plastic production. If used as a lubricant or feedstock, the oil would not be combusted and GHG emission estimates based on combustion would be incorrect. Attempts to estimate GHG emissions from downstream activities also lead to overestimation of global GHG emissions by counting combustion emissions at the production stage and again in GHG inventories of vehicular, residential, and industrial sources, which are already inventoried at end user sites. Estimating GHG emissions occurring at their sources allows reasonable estimates based on known uses and on equipment and operations expected at the source.

- BLM fails to follow CEQ Guidance on Climate Change and NEPA. BLM doesn't have the discretion to ignore existing information and tools. BLM should heed CEQs advice that providing climate change analysis will satisfy the mandates of NEPA. Whether willfully or from ignorance the BLM has failed to employ CEQ guidance, which renders this DNA inadequate.

BLM Response: The Council on Environmental Quality (CEQ), which oversees NEPA compliance for all federal agencies, has issued "Draft NEPA Guidance on Consideration of the Effects of

Climate Change and Greenhouse Gas Emissions” (Feb. 18, 2010). Federal courts considering legal challenges to BLM decisions have found this draft guidance useful in interpreting NEPA’s requirements for considering climate change, although CEQ did not propose to apply the draft guidance to federal land and resource management actions. WildEarth Guardians v. Jewell, 738 F.3d 298, 309 n.5 (D.C. Cir. 2013) (West Antelope II).

Consistent with the CEQ draft guidance, the BLM has used estimated greenhouse gas (GHG) emissions associated with the proposed action as a reasonable proxy for the effects of climate change in its NEPA analysis for oil and gas lease parcel sales. Specifically, the BLM has provided quantitative estimates of the GHG emissions associated with the project, including the projected annual emissions of CO₂, CH₄, and N₂O associated with oil and gas exploration and development activity in the NDFO. The BLM has placed those emissions in the context of relevant state and national emissions. In addition, the BLM has considered and disclosed the projected effects of climate change on the resources within the project area. The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions. West Antelope II, 738 F.3d at 309; WildEarth Guardians v. BLM, Civ. Case No. 1:11-cv-1481 (RJL) (D.D.C. filed Mar. 31, 2014).

- Estimates of climate emissions need to be put in context of using social cost of carbon. The social cost of carbon has been ignored. Costs to society from leasing and burning of public land fossil fuels must be analyzed. Decisionmakers must consider the social cost of carbon from all proposed land management projects. Any NEPA analysis fails to use protocol for assessing the costs to society of carbon emissions failed to meet the "hard look" NEPA requirement. Direct, indirect, and cumulative consequences must be considered. Analysis of site specific impacts must take place at lease sale stage. BLM can't rely on the stated benefits in the project in the RMP to justify approval while ignoring costs to society that will accrue through climate change. Other agencies have been utilizing the social cost of carbon protocol in decision making documents. Project fails to take a hard look at climate impacts to society as contextualized in social cost of carbon protocol. BLM must address the social cost of carbon likely to result from these projects.

BLM Response: The BLM appreciates the comment suggesting the use of the social cost of carbon (SCC) in NEPA analyses for its proposed land and resource management actions. SCC estimates the monetary cost incurred by the emission of one additional metric ton of carbon dioxide (CO₂). Estimating SCC is challenging because it is intended to model effects on the welfare of future generations at a global scale caused by additional carbon emissions occurring in the present. A federal Interagency Working Group on the Social Cost of Carbon (IWG), convened by the Office of Management and Budget, developed an SCC protocol for use in the context of federal agency rulemaking.

The BLM finds that using SCC in its NEPA analysis for this proposed action, which is not a rulemaking, would not be useful.

Some of the specific challenges involved in attempting to apply SCC to the analysis of this proposed action include the following:

- *Given the global nature of climate change, estimating SCC of an individual project requires assessing the impact of the project on the global market for the commodity in question.*

- *NEPA does not require monetization of economic benefits and costs, and CEQ NEPA regulations state that "the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not when there are important qualitative considerations" (40 CFR § 1502.23). Monetizing only certain effects can lead to an unbalanced assessment. A regional economic impact analysis is often used to estimate impacts on economic activity, expressed as projected changes in employment, personal income, or economic output. Such estimates are not benefits or costs, and are not part of a benefit cost analysis.*
- *The SCC estimates provided by the IWG are not applicable to non-CO₂ emissions, such as methane (CH₄). The absence of SCC estimates for GHG emissions other than CO₂ represents an important gap in the context of project-specific monetization of SCC.*
- DNA must analyze impacts from fracking waste water, including the possibility of earthquakes produced by underground injection. The RMP and DNA fail to acknowledge that waste water from the project might need to be disposed of through injection wells. BLM must analyze the likelihood of earthquakes in Colorado before they occur. RMP and DNA do not analyze the degree or frequency of waste water injection. This is a possible impact that should be addressed and stipulations added to prevent impacts.

BLM Response: Upon receipt of an APD, the BLM would initiate a more site-specific NEPA analysis with opportunities to fully analyze and disclose site-specific effects of specifically identified activities. In the event of exploration and development, measures would be taken to reduce, avoid, or minimize potential impacts to water resources including application of appropriate mitigation. Appropriate well completion, the implementation of Spill Prevention Plans, and Impacts from underground injection and impacts to water resources are considered in Section 3.4 and 4.4 in the referenced EA.

- BLM Montana does not post its NEPA analysis for APDs on its website for public review.

BLM Response: BLM Montana does provide notice of all NEPA documents on our website. When offered public comment periods are initiated through official notification. Interested members of the public are encouraged to check this site frequently to ensure adequate time for comment on specific NEPA documents, especially in the case of projects without a planned formal public comment period where direct contact with the project contact may be warranted.

After the 30-day protest period, but before lease issuance, the BLM will issue the DNA. This information, along with other updates and Lease Sale Notice information can be found on the Montana/Dakotas BLM website <http://on.doi.gov/1DYL908>. Current and updated information about our DNA and previous EAs, Lease Sale Notices, and corresponding information pertaining to this sale can be found at the link referenced above.

Attachment 4. Map of Parcel in Williams County

