

Outdoor Recreation and Oil & Gas Leasing Reform

POLICY REPORT
JULY 2023



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Table of Contents

Introduction	3
Climate Change Caused by Oil and Gas Development Damages the Ability of Americans to Recreate on Public Lands	6
Industrial Developments Impair the Quality of Outdoor Recreation Experiences	7
Aging Equipment Leads to Water Pollution from Oil and Gas Wells	7
Methane Flaring, Venting, and Leaking Damages Air Quality	8
Impacts from Industrial Developments Damage Local Community Brands and the Ability to Develop Outdoor Recreation Economies	10
Proposed Leases at Existing Outdoor Recreation Communities: Zion & Moab, Utah	12
Proposed Leases at Aspiring Outdoor Recreation Communities: Caliente, Nevada	14
Benefits of Leasing Reform	17
Conclusion	18

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REPORT ON THE FEDERAL OIL AND GAS LEASING PROGRAM,

Prepared in Response to Executive Order 14008, U.S. Department of the Interior, November 2021:

As an overarching policy, BLM should ensure that oil and gas is not prioritized over other land uses, consistent with BLM's mandate of multiple-use and sustained yield. The BLM should carefully consider what lands make the most sense to lease in terms of expected yields of oil and gas, prospects of earning a fair return for U.S. taxpayers, and conflicts with other uses, such as outdoor recreation and wildlife habitat.¹

Introduction

Life in states with significant public lands has changed dramatically since the passage of the Mineral Leasing Act of 1920. While oil and gas development brought jobs and royalty payments to many rural communities in the 20th century, economic changes in the energy industry and climate change considerations have led a growing number of communities to begin transitioning towards more diverse sources of jobs and revenue.

Increasing use of public lands is bringing new opportunities, including economic benefits from outdoor recreation. With the growth in remote work opportunities, the pandemic accelerated an existing trend of businesses and professionals seeking high quality-of-life in places with outdoor access. Investments in recreation assets are bringing improved prosperity through growing visitation, new business developments, and the recruitment of entrepreneurs, professionals and retirees, all seeking to live in communities with access to protected lands and waters.

Healthy public lands bring quality of life, visitors, and business investment to nearby communities through outdoor recreation, but only if land managers ensure balanced management of those lands. Those seeking healthy places to live and work, and those directly dependent on the outdoor recreation industry, rely on access to our public mountains, rivers, and deserts. Without strong, common-sense protections against methane and other harmful pollution from oil and gas developments, the \$862 billion² outdoor recreation industry and the increasing prosperity of rural communities with access to healthy landscapes will suffer.



Without reforms, the current federal oil and gas leasing system is undermining communities by making it more difficult for local elected officials, businesses, and other stakeholders to bring 21st century economies to their communities. Recent and ongoing conflicts between outdoor recreation and oil and gas leasing in multiple Western states demonstrate the need for reforming the federal oil and gas leasing system. Recreation experiences are impaired by air and water pollution, physical impacts to viewsheds, safety concerns related to recreation and industrial activity occurring in close proximity, and damage to the outdoor “brands” of communities seeking to market themselves as centers for healthy outdoor recreation and tourism. By promulgating a rule addressing the oil and gas leasing process—along with implementing best practices and using newly developed technologies—the Bureau of Land Management (BLM) can protect and improve the physical and economic environment in communities across the country that want to expand regional outdoor recreation economies.

THIS REPORT OUTLINES:

1

The ways in which outdoor recreation is negatively affected by climate change caused in large part by the oil and gas industry.

2

The different impacts that the oil and gas industry have on outdoor recreation experiences.

3

How communities that rely solely on oil and gas will be unable to promote themselves as healthy outdoor hubs and thus attract visitors, new residents, and businesses.

4

How federal land managers continue to propose problematic leasing in areas with established and developing outdoor recreation economies.

5

How reforming the federal oil and gas leasing process through a formal rulemaking can directly address these issues while also retaining oil and gas development where it is economically viable and appropriate.

INTERIOR DEPARTMENT RULEMAKING IS NEEDED TO FINISH THE REFORMS INITIATED IN 2022 BY THE INFLATION REDUCTION ACT AND BUREAU OF LAND MANAGEMENT

In 2022 Congress and the Biden administration took meaningful action to update the oil and gas leasing process. The Inflation Reduction Act of 2022 (IRA)³ raised onshore oil and gas royalties, increased minimum bids and lease rental rates, required fees for expressions of interest, eliminated noncompetitive leasing, updated onshore bonding requirements, and required a fee for methane that is consumed or lost by venting or flaring. The BLM has taken steps to reform and improve the federal oil and gas leasing process through guidance issued in instruction memos to field managers that, in part, requires a filtering system to ascribe “low preference” to parcels with multiple uses that have other significant values such as outdoor recreation.⁴

However, under the IRA significant ongoing oil and gas leasing is required through 2032 for the BLM to issue any rights-of-way for wind and solar development; BLM must offer for lease at least 2 million acres of federal lands (or, if less, at least half the acreage for which potential bidders submitted expressions of interest) in the year before each proposed wind or solar right of way is issued.

Thus, because the BLM must by law continue to sell oil and gas leases on federal lands, the Interior Department should issue a permanent rule addressing the outstanding issues not remedied in the IRA. Such a rule could also make permanent the policies in the 2022 BLM instruction memos that address oil and gas leasing. In particular, the Interior Department should promulgate a rule that strengthens and makes permanent the guidance issued in November 2022 with instruction memo 2023-007—“Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales”⁵—which provides direction for the evaluation of nominated lease parcels and the selection of which parcels to be offered in oil and gas lease sales. This deferral/filtering criteria was developed in response to the November 2021 Interior Department Report on the federal oil and gas leasing program, recommending that “the BLM should carefully consider what lands make the most sense to lease in terms of expected yields of oil and gas, prospects of earning a fair return for U.S. taxpayers, and conflicts with other uses.”⁶



Climate Change Caused by Oil and Gas Development Damages the Ability of Americans to Recreate on Public Lands

Climate change uniquely affects outdoor recreation, fundamentally altering public lands and waters and the outdoor recreation experiences they support. Hikers, anglers, mountain bikers, snowboarders, climbers, scuba divers, and other recreationists are all negatively affected by climate change. In 2019, the House Natural Resources Committee held a hearing on the effects of climate change on outdoor recreation, where Outdoor Alliance testified to the many harms inflicted on the quality of the outdoor recreation experience, health impacts and safety concerns for recreationists, and damage to the outdoor recreation economy.⁷ Climate change also harms the outdoor recreation industry by reducing snowpack for skiing and other snowsports, creating water insecurity such as low river flows for recreational boaters, barring basic access to public lands during fire season (year-round now in some places), and many other detrimental impacts to public land users from air and water quality concerns.

According to the United Nations' climate science body, methane is responsible for 30%⁸ of the climate change we are experiencing today, and oil and gas is the largest industrial source of methane pollution, accounting for a third of emissions.⁹ In addition, the burning of fossil fuels is the primary driver of global warming. Addressing climate changes requires expeditiously ramping down greenhouse gas emissions, and, as a resource owned in common by all Americans, our public lands and waters and the agencies that manage them on Americans' behalf must set the curve in aggressively moving to limit emissions. Acknowledging the constraints imposed by the tethering provisions of the IRA, the Department of Interior must act to limit the climate impacts of oil and gas development activities on public lands and waters and address the acute local effects of oil and gas development on conservation and recreation values.



Industrial Developments Impair the Quality of Outdoor Recreation Experiences

In addition to climate impacts, noise and air and water quality concerns from industrial operations can harm outdoor recreation experiences. This harm manifests in both direct contact for visitors with contaminated air and water and through damage to the reputation of a place or community. While tourism officials can spend millions marketing a location, if a place has a reputation for industrial noise or pollution that degrades the outdoor experience, transitioning beyond resource extraction to a cleaner and more durable economy that includes outdoor recreation will be nearly impossible.

AGING EQUIPMENT LEADS TO WATER POLLUTION FROM OIL AND GAS WELLS

An important example can be found in Grand County, Utah. Water quality is an essential aspect of any boating, fishing, and wildlife viewing experience, especially where people will have direct contact with the water. On May 20, 2014, a 45-year-old oil production well in Utah began leaking 100 barrels an hour into a dry wash near the Green River, and a subsequent storm forced the crude oil into the river itself significantly impairing the water quality and imperiling the health of boaters in Labyrinth Canyon, a popular paddling destination¹⁰ between the town of Green River, Utah and Canyonlands National Park. This section of the river is also home to three endangered fish species.¹¹ The failed well dumped an estimated 80-100 barrels per hour for over 30 hours into Salt Wash. While the original spill was initially contained by federal and state officials, an intense rainstorm subsequently caused a breach in containment dams pushing the contaminated water 4.5 miles down Salt Wash and into the Green River. A Utah Division of Water Quality official admitted that the “truth is that nobody will ever know how much got in the river, because nobody was sitting here watching it,” but a few days later an “eyewitness’s photo revealed a large oil slick 30 miles downstream from the incident site”¹² on the Green River, and pools of oily water were observed in Salt Wash.¹³

Unfortunately, this was not an isolated case. The same operator responsible for the oil spill at Salt Wash in 2014, SW Energy, spilled over 500 barrels of oil at the same site in 1995, yet escaped with only a minor fine from the 2014 incident.¹⁴ Water contamination from oil development operations occurs from well failures like these, as well as from wastewater storage systems, oil and wastewater transport, disposal wells, and other related industrial activities.¹⁵

Often industrial infrastructure is outdated and in disrepair, making spills and leaks of all types more likely. According to the Associated Press, between 2009 and 2014 more than 180 million gallons of wastewater was spilled from at least 21,651 individual incidents from ruptured pipes, overflowing storage tanks, intentional dumping,¹⁶ or the gross negligence of oil operators¹⁷—and these numbers

are likely very low because many spills go unreported. As with the incident involving the Green River’s Labyrinth Canyon, impacts to outdoor recreation are one of many harms that resulted from these oil spills.

Solutions

- » **Strengthen Bonding Requirements:** To protect recreation resources and related outdoor economies, the Interior Department should strengthen bonding requirements to prevent ongoing air, water, and visual impacts from abandoned wells and prevent the current crisis from continuing to worsen in the future. The Interior Department should establish a regulation updating bonding requirements consistent with proposals such as from Colorado Senator Michael Bennet.¹⁸
- » **Strengthen Stipulations in Drilling Permits:** To ensure bonding is adequate and that aging equipment is updated to prevent equipment failure, including when lease interests are transferred to another party.

METHANE FLARING, VENTING, AND LEAKING DAMAGES AIR QUALITY

Oil and gas developments also negatively affect outdoor recreation through air quality degradation and contributions to climate change. Most air pollution from the oil and gas extraction process occurs through releasing (often intentional emissions) and flaring of methane. Studies show that “poor air quality represents a significant health risk, especially when recreating outdoors,”¹⁹ and that the presence of oil and gas development within five kilometers of an overnight recreation site will cause less visitation, suggesting that “the presence of oil and gas development may have a significant enough effect on the user experience to motivate some users to recreate elsewhere.”²⁰ The deliberate release of methane from oil and gas operations is common, and reducing such emissions is the



focus on federal efforts to regulate the emissions of harmful greenhouse gases and ensure federal taxpayers receive a fair return on the leasing of a public resource.²¹

Another source of air quality degradation comes from abandoned and orphaned wells, which are a significant contributor to air pollution from oil and gas operations. While bonds are required for reclamation of wells at the time of their establishment, these funds are often inadequate. The BLM is charged with monitoring permitted wells drilled on federal public lands and accurately classifying the status of each well, as well as enforcing operator reclamation requirements. Once oil and gas wells cease production on public lands, they are classified as inactive, non-producing wells that, under the current regs, operators can let languish in an inactive state essentially indefinitely.²² Yet operators often fail to reclaim wells that were inadequately bonded. In many cases, larger out-of-state developers have sold these declining producers to local operators who simply do not have the cashflow to properly reclaim and cap wells. With the original developer long gone, physical and environmental hazards such as leaking methane, polluted surface water features, or contaminated groundwater reserves result. Cleanup costs from abandoned wells fall to taxpayers,²³ and opportunities to significantly reduce methane releases are missed.²⁴

Moreover, abandoned wells risk the health of neighboring communities and those that recreate nearby. One example can be found in Fruita, Colorado where outdoor recreation is the lifeblood of the local economy. Fruita is considered a premier mountain biking destination, home to world-famous trails that riders of all skill levels and abilities can enjoy. This strong legacy of outdoor sports is the reason people choose to live and visit Fruita and why new businesses continue to crop up there. In addition to bike trails, oil wells are also scattered throughout the area, many close to population centers and popular recreation sites. Many of these wells are either orphaned or significantly at-risk of becoming so,²⁵ several of which are located in close proximity to the 18 Road Trails area, an extensive network of designated recreation routes that put Fruita on the mountain biking map.

Solutions

- » **Strengthen Bonding Requirements:** To protect recreationists, recreation resources, and related outdoor economies, the Interior Department should strengthen bonding requirements—consistent with proposals such as from Colorado Senator Michael Bennet²⁶—to prevent ongoing air, water, and visual impacts from abandoned wells and protect aspiring recreation communities and established outdoor recreation towns like Fruita.
- » **Cap and Restore Existing Wells:** Ensure that bonding requirements required of oil and gas operators are adequate to cap and restore wells and well pads.

Fruita isn't the only recreation community facing the imminent threat of abandoned wells. As more communities invest in recreation assets, additional trail systems, climbing areas, and campgrounds will be at risk of nearby orphaned wells. For example, recent concerns have been identified near the Animas River in Durango, Colorado, and within Upper Missouri River Breaks National Monument near Lewistown, Montana.²⁷

Impacts from Industrial Developments Damage Local Community Brands and the Ability to Develop Outdoor Recreation Economies

The outdoor industry²⁸ brings millions of jobs to communities across the country in many ways. Recreation visitors bring needed dollars to cities and towns that have recreation assets like rivers, trails, and other outdoor spaces where fishing, hunting, boating, hiking, skiing, biking, climbing, and a long list of other outdoor activities take place. Outdoor recreation companies and businesses across a range of industries, both large and small, are choosing to locate in these communities because their employees want to live in places with access to the great outdoors. Across the country, communities that have previously depended primarily upon resource extraction have begun to diversify their economies into the recreation sector. However, better management and regulation of oil and gas development is needed to protect outdoor recreation experiences and to foster outdoor recreation economies. The placement and design of industrial infrastructure and necessary access roads significantly affect the recreation experience. If access roads for oil operations cross recreation trails at multiple points, the trail experience can be significantly degraded. In addition, in places like climbing areas, waterfronts, or camping areas where visitors remain in the same place for extensive periods of time, noise, dust, and congestion from nearby road traffic can undermine the outdoor experience. For example, these issues posed a serious concern for the Big Flat area north of Canyonlands National Park in Utah where climbers spend much of the day on nearby cliffs and mountain bikers cross busy roads in multiple places. As BLM has recognized, the presence of infrastructure and traffic related to energy development in recreation areas can “create poor road conditions, industrial level traffic, and fugitive dust that could degrade the recreation experiences and could conflict with recreational use...”²⁹

In addition to damaging communities with outdoor brands, conflicts between oil and gas operations and outdoor recreation consume the time and resources of land managers working to balance multiple uses. Staff is stretched between the permitting and management of oil and gas operations



while also planning and managing for a range of outdoor recreation activities and community assets. For example, the town of Farmington, New Mexico sought to diversify its longstanding reliance on the boom-and-bust oil and gas industry. Around 2018 the town kicked off its “Jolt Your Journey” marketing campaign, inviting visitors to discover the “cultural, outdoor, and family adventure basecamp” of the Farmington area, with its “breathtaking landscapes, unique cultures, and family-friendly adventures.”³⁰ While the town has made significant progress in identifying opportunities to improve its outdoor recreation amenities,³¹ local land managers were consumed by their priority of managing oil and gas operations rather than permitting new trails or improving other recreational infrastructure that could help Farmington diversify its economy. The BLM’s inability to support the community’s outdoor recreation aspirations was especially noteworthy as Farmington resides in a methane hot spot the size of Delaware³² that scientists attribute to natural gas production equipment and infrastructure.³³ The problem of oil and gas management dominating BLM resources at the expense of other multiple uses is not an issue unique to the Farmington Field Office—the prioritization of oil and gas development above all other uses has been a difficult issue across the entire agency for years and is evidenced by on-going proposed leases of popular and important recreation areas, including those with only little or even no drilling potential where the industry has only speculative interest for leasing.

Reforming the existing federal oil and gas leasing system will benefit outdoor recreation enthusiasts, local communities developing outdoor recreation economies, oil and gas operators (big and small), and federal land managers. The current leasing system is in need of reform in several ways. It prioritizes oil and gas operations over other public land multiple uses and incentivizes speculation, allowing the oil and gas industry to dominate landscape use and management. This dynamic results from a number of factors: first, ninety percent of Western public lands are open to leasing, and it is historically very cheap to nominate parcels. Second, the process has a long history of allowing for antiquated policies such as anonymous lease nominations, noncompetitive leasing, under-market

lease and rental rates, easy lease extension and renewal terms, insufficient bonding, and the leasing of “low potential lands” that may have other values such as conservation and recreation. While some of these leasing procedures have been updated or eliminated by the Inflation Reduction Act, other outdated provisions have not been updated. Congress can address these issues through legislation such as Senator Cortez Masto’s *End Speculative Oil and Gas Leasing Act*³⁴ that generally prohibits the BLM and USDA Forest Service from leasing for oil and gas on lands that land use plans have identified as having low or no oil or gas potential. However, the Biden administration can address the broad set of ongoing issues through a durable rulemaking that effectively balances multiple uses on public lands. Historically the leasing system has been rife with problems, and although Congress has taken steps to make some much-needed updates like increasing the fiscal rates and fees and ending noncompetitive leasing, effective implementation of those legislative changes plus additional reforms such as stronger bonding is still needed via rulemaking.

PROPOSED LEASES AT EXISTING OUTDOOR RECREATION COMMUNITIES: ZION & MOAB, UTAH

Despite its robust outdoor recreation brand and economy, Utah BLM has frequently proposed oil and gas leases in some of the country’s most famous outdoor recreation venues. Not only would drilling in these areas undermine existing proven economic drivers, but undeveloped leases would pose an ongoing threat that would discourage investment in the future, as developers are currently allowed to let inactive leases languish indefinitely. BLM has taken a significant step towards addressing these issues through its November 2022 Instruction Memoranda, but it is essential that these reforms be solidified by rulemaking.

An example of an ill-considered lease proposal affecting recreation occurred in 2015 when BLM proposed leases next to Zion National Park that lacked protections to address potential impacts on the park, its visitors, and local economy. Zion is a major economic driver in Washington County, Utah, generating almost \$275 million in economic output in 2015 and supporting almost 3,000 jobs. The BLM’s proposed leases were located within 1.5 miles of the park, squarely within the park’s scenic viewshed. Two of the proposed leases straddled the Kolob Terrace Road, which is the primary access route to the park’s western trailheads and the use of which the BLM’s own draft environmental analysis described as “heavy.”



After significant opposition to these leases from local government, the business community, and local residents, and over 40,000 comments from the general public, then-Utah Governor Gary Herbert sent a letter to the BLM opposing leases so close to Zion National Park, saying that, “the preservation of this unique experience is important to the surrounding communities.” The BLM ultimately cancelled the Zion leases on June 1, 2017, issuing a decision to defer³⁵ three controversial lease parcels in direct proximity to the park. In a press release,³⁶ the BLM’s Utah State Director Edwin Roberson said, “based on the environmental review and recognizing the rapid growth of recreational visits and tourism on adjacent public lands, the BLM believes that deferring these parcels for further review is the right decision.”

While it seems like an obvious decision to defer these leases in order to comply with FLPMA’s multiple use mandate, unfortunately Utah BLM continues to propose problematic oil and gas leases that directly conflict with outdoor recreation, including near canyoneering routes at the San Rafael Swell,³⁷ boating on the White River, mountain biking near McCoy Flats near Vernal, and even a proposal to lease the famous Slickrock Trail adjacent to Moab.³⁸ But perhaps the most alarming proposal was the 2020 anonymous nomination³⁹ to lease over 110,00 acres affecting highly popular outdoor recreation lands near Moab, Utah, and Canyonlands National Park. This oil and gas auction would have affected key recreation-rich lands in Grand County, tying them up in oil and gas leases for decades, discouraging future recreation asset investments, and impairing the community’s economic lifeblood: outdoor recreation. Important air quality issues due to methane leakage and flaring, constant low-level noise from well pads, and industrial truck traffic on six of Moab’s seven major recreation transportation arteries all would increase. This in turn meant that nearly every recreation outing in Grand County, involving both visitors and locals, would have been impacted by oil and gas activities.⁴⁰

Due to widespread opposition from the local community, local government,⁴¹ and outdoor recreation advocates and a petition with over 30,000 signatures, the BLM initially reduced the proposed acreage to 87,000 acres and then eventually decided to defer all 87,00 acres from leasing⁴² “Understanding the nature of the proposed parcels, as well as gathering input from local communities, partners and the public are a priority for me as the new state director for BLM Utah,” Greg Sheehan said Tuesday in announcing the scaled-back auction. “The BLM supports the



recreation and tourism industry as an important source of revenue in Utah, while also responsibly leasing and supporting our nation’s energy independence.”

PROPOSED LEASES AT ASPIRING OUTDOOR RECREATION COMMUNITIES: CALIENTE, NEVADA

While the BLM continues to lease areas with existing high value for outdoor recreation use such as at Zion and Moab, the agency also continues to propose leasing areas working hard to develop outdoor recreation economies—even at areas the agency itself has set aside for special recreation management designations and has promoted for recreation opportunities.⁴³ One such location is Caliente, Nevada—nicknamed “Nevada’s Rose City”— a growing town of approximately 1,200 with high job growth projected over the next ten years due in part to an outstanding regional landscape that supports a wide range of recreation opportunities like hiking, climbing, mountain biking,⁴⁴ and off-roading.

For the last several years Caliente has aggressively planned for developing a local outdoor recreation economy featuring significant investments in mountain bike trails. In 2013, the International Mountain Bicycling Association (IMBA) allocated \$5,000 for a review of trails in the area, finding significant potential, and the community then developed a more detailed trail plan costing \$50,000 with funds raised from the city’s lodging tax, a Lincoln County grant, and BLM recreation fees. Caliente then obtained \$496,000 from the Southern Nevada Public Land Management Act (SNPLMA) for the development of a bike park and parking facilities, local Kershaw-Ryan State Park secured \$250,000 from the Recreational Trails Program (RTP), and the BLM office in Caliente acquired \$1,000,000

through SNPLMA for local efforts to develop the bike park and more than 65 miles of multi-use, non-motorized single-track trails on City of Caliente land, BLM lands, Nevada State Park lands, and at Kershaw-Ryan State Park.

In September 2019, Caliente hosted its first annual Mountain Bike Festival⁴⁵ at nearby Barnes Canyon⁴⁶ where more than 200 cyclists competed on Barnes Canyon and Kershaw-Ryan State Park⁴⁷ single-track trail networks, as well as the Caliente Super Park⁴⁸ flow trails, dirt jumps, and pump track. Local, state, and federal organizations and a range of volunteers collaborated on the construction of new trails to support the event, and many Caliente locals view this event as the beginning to a growing mountain bike movement in Lincoln County.⁴⁹



Then, despite all this work and enthusiasm to develop the Caliente area for outdoor recreation, the BLM put up for auction parcels containing these trails for oil and gas development, which could significantly degrade the riding experience and put these investments at risk. The Interior Department's own 2021 Report⁵⁰ acknowledges that this speculative approach contributes to unbalanced land management. Moreover, these particular acres in Caliente that were proposed for leasing have low potential for productive oil and gas development.⁵¹ When land is under contract for potential oil and gas activity, the shared public lands cannot be managed for other purposes, such as conservation or recreation. The BLM should carefully consider what lands make the most sense to lease in terms of expected yields of oil and gas, prospects of earning a fair return for U.S. taxpayers, and conflicts with other uses, such as outdoor recreation and wildlife habitat.⁵² As the Caliente area works to grow its regional recreation economy to attract jobs of all types, the leasing of low and no potential lands for oil and gas could diminish opportunities for further trail development and outdoor access. Leasing these lands could leave the community in a lose-lose situation, with minimal chance of receiving mineral lease revenues from these areas while simultaneously threatening further trail investments.

Fortunately, after outreach and complaints by the outdoor recreation community,⁵³ the BLM ultimately removed the Barnes Canyon parcels from consideration following comments to a preliminary environmental assessment,⁵⁴ but not until after “the burden and expense ... fall[ing] on BLM to process those parcels, triggering the dedication of BLM staff resources to analyze marginal lands that companies may not be interested in bidding on and that may never be leased, much less developed.”⁵⁵ In addition, the local community and outdoor recreation enthusiasts expended considerable resources combating poorly considered lease sales such as this one at Caliente. While the November 2022 BLM guidance—Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales, IM 2023-007⁵⁶—should take parcels like this off the table in the future because of their recreation values, reforms solidified through a BLM rule protecting recreation experiences and local economies are the most viable and effective action that could protect communities like Caliente.

Unfortunately, the BLM has a long track record of leasing important recreation sites for oil and gas development and negatively impacting the outdoor experience. Theodore Roosevelt National Park in North Dakota where visitation to the Maah Daah Hey Trail decreased amid concerns about safety and air quality around oil well pads⁵⁷ and the rapid expansion of the Bakken Oil Field in the mid 2010s that quickly engulfed the national park also affected

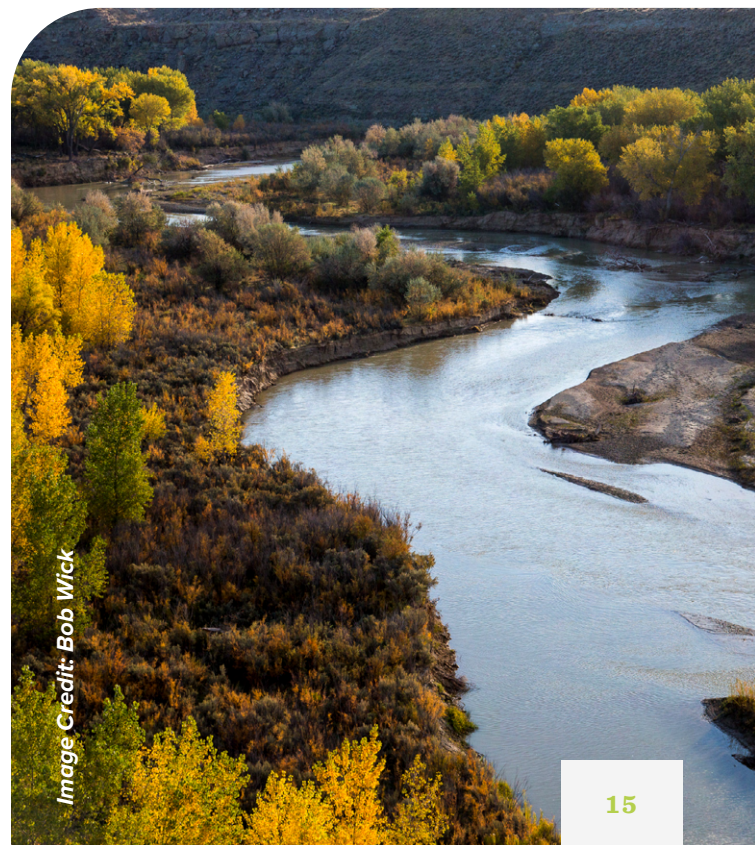


Image Credit: Bob Wick

the viewshed experience of visitors and impaired the area’s famous night skies.⁵⁸ And recently, Utah BLM⁵⁹ proposed leasing an area that affects some significant recreation resources such as boating on the White River, a stream that is already highly compromised by existing and proposed industrial developments in the region even though a BLM pamphlet on floating the White River describes it as “one of the quiet places, where solitude...[is] still very much a part of the outdoor experience.” These proposed parcels lie within a popular and commonly visited reach of the White River, and any development on this site—which abuts the White River Special Recreation Management Area—would detract from the viewscape for river runners and other recreation users in or near the river corridor. Other recreation parcels BLM has proposed for leasing include the San Rafael Swell in Utah⁶⁰ and the Converse County Park in Wyoming,⁶¹ among others.

With all of these examples where the BLM deferred problematic lease proposals affecting outdoor recreation, the discretionary decisions have all come only after significant opposition from a diversity of stakeholders and decision-makers and a significant amount of time invested by BLM staff—not from a framework within the leasing system designed to avoid conflicts with other multiple uses.

Solutions

- » **Eliminate Recreation Parcels from Leasing Consideration:** DOI should formalize a regulation that evaluates the highest and best use of nominated lands and eliminate from consideration lease proposals that could negatively affect outdoor recreation assets. Accordingly, the Interior Department should promulgate a rule that refines and makes permanent the guidance issued in November 2022 with instruction memo 2023-007—“Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales”⁶²—which provides direction for the evaluation of nominated lease parcels and the selection of which parcels to be offered in oil and gas lease sales. This deferral/filtering criteria was developed in response to the recommendation made in the November 2021 DOI Report on the federal oil and gas leasing program that, “the BLM should carefully consider what lands make the most sense to lease in terms of expected yields of oil and gas, prospects of earning a fair return for U.S. taxpayers, and conflicts with other uses.”⁶³ The use of this criteria should be strengthened in a rule: since Instruction Memo 2023-007 issuance, BLM has applied this filtering process, but it has not uniformly informed leasing decisions in that many parcels designated as “low” preference are still being moved forward for lease.
- » **Recreation Resources Preservation Alternative:** If the BLM nonetheless does include recreation lands—or recreation adjacent lands—to any lease sale proposal, the environmental analysis should include a “Recreation Resources Preservation Alternative” such as was issued

in the BLM Utah 2022 First Competitive Oil and Gas Lease Sale (DOI-BLM-UT-0000-2021-0007-EA April 2022) in order to effectively “preserve, to the extent practical, the recreational opportunities that could be impacted by development of the parcels.”⁶⁴

- » **Expand Public Participation Opportunities:** To safeguard recreation assets, BLM must ensure robust public participation in the leasing process. Accordingly, DOI should promulgate a rule similar to BLM guidance found in IM 2023-010 – “Oil and Gas Leasing – Land Use Planning and Lease Parcel Reviews”⁶⁵ that the BLM issued in November 2022 to ensure that oil and gas lease sales are held in accordance with current law and directs BLM planners to address parcel review updates in the IRA. IM 2023-10 also requires a minimum 30-day scoping period, a minimum 30-day NEPA document review/comment period, and a 30-day protest period for all lease sales. Public participation on public land use decisions is vital to ensure that the public interest is being served and that the BLM is engaged in informed decision making. Over the last several years, recreation advocates have highlighted many leasing conflicts with recreation assets—often at recreation locations that the BLM was unaware of—resulting in eventual lease parcel deferrals. This was made significantly more challenging because of inadequate public participation opportunities.
- » **Eliminate Speculative Leasing:** While the Inflation Reduction Act elimination of noncompetitive leasing was an important step towards curbing wasteful leasing practices, BLM must do more to prevent harmful oil and gas speculation from threatening other valuable uses of our public lands such as recreation. DOI should promulgate a rule to address the speculative practice of leasing lands with little to no development potential to ensure that those lands can be protected and managed for the recreation and conservation values they offer.

Benefits of Leasing Reform

Reforming the oil and gas leasing system will benefit a wide range of stakeholders: 1) outdoor recreation enthusiasts who depend on quality unpolluted landscapes that are not closed by land managers due to increasing natural catastrophes such as wildfires, 2) local “frontline” communities who will benefit from reform because it support their ability to diversify their economies, 3) oil and gas operators who will also benefit from oil and gas reform through increased certainty and reduced

conflict, and 4) land managers such as the BLM that will reduce the burden and expense associated with processing controversial and low potential parcels that conflict with other values. The efficiencies which will result from the reforms detailed above will benefit all stakeholders.⁶⁶

Conclusion

A fundamental principle of the Federal Land Policy and Management Act (FLPMA) is that outdoor recreation is one of the “major” uses of public lands, alongside grazing, energy development, fish and wildlife, rights-of-way, and timber production. In addition, the Multiple Use Sustained Yield Act (MUSY) mandates that public resources be managed “so that they are utilized in the combination that will best meet the needs of the American people,” and that renewable resources shall be managed in a manner that avoids “impairment of the productivity of the land.”⁶⁷ Reforming the federal oil and gas leasing system is necessary to fulfill the mandates in FLPMA and ensure that the recreation resource is not impaired and is maintained to best meet the interests of the American people.

Accordingly, DOI should promulgate a rule that includes deferral and screening criteria preventing leasing of recreation lands at the outset of the lease sale process. Such a rule should also eliminate speculation incentives in the current leasing process involving expressions of interest and the leasing of low potential lands. Also, the Interior Department should increase minimum bonding rates to more closely align with full cost of plugging wells and reclaiming surrounding lands and provide at least 90 days for public participation in any leasing proposal.

Solving all of these problems will support public land communities of all types. By severely limiting or stopping unproductive leasing all together, more land will be available in its natural state for people to enjoy through trails and other recreation assets. Better management of existing well pads to fix methane leaks will improve air quality and provide jobs, as will a program for capping and restoration. Revamping the process by which wells can be sold will prevent communities from bearing the burden of polluting wells and better prepare them for new ventures in recreation and renewable energy, as well as other industries. As we work towards reducing oil and gas dependence, there is an opportunity to utilize best practices in leasing, well pad management, capping, and restoration. The regulations and policies that govern these processes can be changed by both Congressional legislation and the Biden Department of Interior.



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THIS REPORT WAS PREPARED BY OUTDOOR ALLIANCE AND PUBLIC LAND SOLUTIONS.

Outdoor Alliance - Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, the Mazamas, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

Public Land Solutions - Public Land Solutions is a non-profit organization dedicated to providing comprehensive recreation planning and stakeholder coordination to support effective and sustainable public land solutions. We work at the local, regional, and national level on BLM planning and permitting proposals related to oil and gas leasing, and our primary focus is the protection and enhancement of recreation assets and opportunities to develop durable and robust recreation economies. Our advocacy efforts to protect and enhance recreation assets on public lands include organizing stakeholder workshops, providing detailed comments and proposed maps during BLM comment periods, delivering presentations to local and state governments, and communicating with a wide range of interested stakeholders.



Endnotes

- ¹ See REPORT ON THE FEDERAL OIL AND GAS LEASING PROGRAM, Prepared in Response to Executive Order 14008, U.S. Department of the Interior, November 2021. Found at <https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf>.
- ² The Bureau of Economic Analysis calculates the economic output of outdoor recreation to be \$862 billion, surpassing industries such as mining, utilities, farming and ranching, and chemical products manufacturing. See <https://recreationroundtable.org/economic-impact/>.
- ³ PUBLIC LAW 117–169—AUG. 16, 2022.
- ⁴ See e.g., OIL AND GAS LEASING – LAND USE PLANNING AND LEASE PARCEL REVIEWS, IM 2023-010, November 21, 2022. Found at <https://www.blm.gov/policy/im-2023-010>.
- ⁵ See Evaluating Competitive Oil and Gas Lease Sale Parcels for Future Lease Sales, IM 2023-007, Bureau of Land Management, November 21, 2022. Found at <https://www.blm.gov/policy/im-2023-007>.
- ⁶ See REPORT ON THE FEDERAL OIL AND GAS LEASING PROGRAM, Prepared in Response to Executive Order 14008, U.S. Department of the Interior, November 2021. Found at <https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf>.
- ⁷ See testimony re *Subcommittee Hearing Examining The Impacts Of Climate Change On Public Lands Recreation*, Outdoor Alliance, May 15, 2019. Found at <https://static1.squarespace.com/static/54aabb14e4b01142027654ee/t/5cddc6fd82a3880001e500c5/1558038270135/OA+Climate+Rec+Impacts+%281%29.pdf>.
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- ⁹ The oil and gas industry is one of the largest sources of methane pollution in the US, and studies show that reducing oil and gas methane is the easiest and most effective action we can take to address climate change. Many companies in the oil and gas industry support a strong EPA Methane Rule. See *U.S. unveils crackdown on methane from oil and gas industry*, Reuters, November 2, 2021. Found at [https://www.bp.com/en_us/united-states/home/news/press-releases/bp-commends-epa-for-advancing-methane-rules.html](https://www.reuters.com/business/environment/us-unveils-crackdown-methane-starting-with-oil-gas-rules-2021-11-02/#:~:text=Nov%20%20(Reuters)%20%2D%20The,announcement%20coincided%20with%20the%20U.N; bp commends EPA for advancing methane rules, bp.com, November 11, 2022. Found at <a href=). Moreover, both large and independent oil and gas operators have committed to end routine flaring. ExxonMobil, for example, committed to end routine flaring across its assets in the Permian Basin by 2022, BP committed to end routine flaring by 2025 in its U.S. onshore operations, and many more have signed on to the World Bank’s goal of ending routine flaring worldwide by 2030. See *About the “Zero Routine Flaring by 2030” Initiative*, The World Bank. Found at <https://www.worldbank.org/en/programs/zero-routine-flaring-by-2030/about#:~:text=Launched%20in%202015%2C%20the%20>

[ZRF,by%2Dproduct%20of%20oil%20production.](#)

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- ¹⁶ *AP Exclusive: Thousands of wastewater spills scar land, threaten water amid drilling boom*, foxbusiness.com, March 9, 2016. Found at <https://www.foxbusiness.com/markets/ap-exclusive-thousands-of-wastewater-spills-scar-land-threaten-water-amid-drilling-boom>.
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- ²² Inactive wells are categorized as shut-in, temporarily abandoned, idle, dormant, or orphaned. In 2018, the U.S. Environmental Protection Agency (EPA) estimated that there are 3.2 million inactive oil and gas wells in the United States, 2 million of which are unplugged or improperly plugged. In recent years there has been an increase in both drilling and well operator bankruptcies, increasing the number of wells at risk of becoming abandoned, orphaned, or improperly plugged, providing more opportunities for methane, a potent greenhouse gas that exacerbates climate change, to escape.
- ²³ In the 2022 Infrastructure Investment and Jobs Act Congress authorized \$4.7 of taxpayer money to cleanup orphaned wells across the country. See *Biden-Harris Administration Makes \$50 Million Available to Clean Up Orphaned Oil and Gas Wells on Tribal Lands*, U.S. Department of the Interior, November 23, 2022. Found at <https://www.doi.gov/pressreleases/biden-harris-administration-makes-50-million-available-clean-orphaned-oil-and-gas#:~:text=The%20Bipartisan%20Infrastructure%20Law%20provides,%2Dto%2Dnation%20consultation%20process.>
- ²⁴ Abandoned wells are unplugged wells (primarily oil or gas wells) that have not been operated and maintained in accordance with prevailing statute and regulation. Many abandoned wells have fallen into advanced states of disrepair. Orphaned wells are a subset of abandoned wells for which no owner can be determined.
- ²⁵ Ninety-seven at-risk well sites are within a mile of recreation sites. Nine at-risk well sites are within a mile of National Park Service lands. Over 5,000 at-risk well sites, two-thirds of the entire dataset, are located in crucial winter range habitat or habitat restoration priority areas for big game mammals. See *Inactive Oil and Gas Wells on Federal Lands and Minerals: Potential Costs and Conflicts*, National Wildlife Federation & Public Land Solutions, March 1, 2021. Found at https://977.885.myftpupload.com/wp-content/uploads/2021/03/03-17-21_Inactive-Oil-and-Gas-Wells-on-Federal-Lands-and-Minerals-Report.pdf.
- ²⁶ See *Bennet's Oil and Gas Bonding Reform and Orphaned Well Remediation Act Would Modernize Federal Bonding Rates to Reflect True Costs of Well Clean-Up*, U.S. Senator Michael Bennet, December 22, 2022. Found at <https://www.bennet.senate.gov/public/index.cfm/2022/12/bennet-urges-secretary-haaland-to-reform-outdated-oil-and-gas-bonding-rates-to-ensure-companies-not-taxpayers-pay-cleanup-costs-of-wells-drilled-on-federal-lands#:~:text=for%20nearby%20communities.,Bennet's%20Oil%20and%20Gas%20Bonding%20Reform%20and%20Orphaned%20Well%20Remediation,for%20future%20cleanup%20and%20remediation.>
- ²⁷ *Id.*
- ²⁸ See *Outdoor Recreation Satellite Account, U.S. and States, 2021*, Bureau of Economic Analysis. Found at <https://outdoorindustry.org/advocacy/>.
- ²⁹ See Moab Master Leasing Plan Final Environmental Impact Statement, Chapter 4, p. 4-61. Found at https://eplanning.blm.gov/public_projects/lup/68430/87868/105214/MLP_FEIS_Chapter-4.pdf.
- ³⁰ *Choose Your Journey!*, Farmington.org. Found at <https://farmingtonnm.org/choose-your-journey>.
- ³¹ *Farmington, New Mexico Recreation Audit*, Public Land Solutions. Found at <https://977.885.myftpupload.com/wp->

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³² *New study fingerprints methane emission sources in the San Juan Basin*, nmpoliticalreport.com, October 14, 2022. Found at <https://nmpoliticalreport.com/2022/10/14/new-study-fingerprints-methane-emission-sources-in-the-san-juan-basin/>.

³³ *NASA: Industry the source of methane 'hot spot'*, Farmington Daily Times, August 15, 2016. Found at <https://www.daily-times.com/story/money/industries/oil-gas/2016/08/15/nasa-industry-source-methane-hot-spot/88763622/>.

³⁴ See S.607 - End Speculative Oil and Gas Leasing Act of 2021. Found at <https://www.congress.gov/bill/117th-congress/senate-bill/607/text>.

³⁵ See *BLM yanks oil and gas leases proposed near Zion after complaints from residents*, Salt Lake Tribune, June 2, 2017. Found at <https://archive.sltrib.com/article.php?id=5352062&itype=CMSID>.

³⁶ See *BLM Posts Proposed Parcel List for September Oil and Gas Lease Sale*, Bureau of Land Management, June 2, 2017. Found at <https://www.blm.gov/press-release/blm-posts-proposed-parcel-list-september-oil-and-gas-lease-sale>.

³⁷ *BLM Utah 2022 First Competitive Oil and Gas Lease Sale (DOI-BLM-UT-0000-2021-0007-EA)*, April 2022, Alternative B-Recreation Resources Preservation. Found at [https://eplanning.blm.gov/public_projects/2015573/200495437/20057759/250063941/2022-04-18_2022-1st-DOI-BLM-UT-0000-2021-0007-30dayProtestPeriod_Final%20\(1\).pdf](https://eplanning.blm.gov/public_projects/2015573/200495437/20057759/250063941/2022-04-18_2022-1st-DOI-BLM-UT-0000-2021-0007-30dayProtestPeriod_Final%20(1).pdf).

³⁸ *Feds propose oil and gas leasing on Moab's Slickrock trail*, Salt Lake Tribune, January 23, 2020. Found at <https://www.sltrib.com/news/environment/2020/01/23/feds-propose-oil-gas/>.

³⁹ Expressions of interest from the oil and gas industry for Utah's 2020 September BLM oil and gas auction eventually showed that one small Minnesota-based company was be interested in leasing over 110,000 acres—nearly all the remaining available unleased oil and gas parcels in the Moab region. The interested company at that time owned only one active well in South Dakota. See *A Guy Named Craig May Soon Have Control Over A Large Swath Of Utah*, The New Yorker, June 13, 2020. Found at <https://www.newyorker.com/news/daily-comment/a-guy-named-craig-may-soon-have-control-over-a-large-swath-of-utah>.

⁴⁰ These 2020 Grand County, Utah lease proposals would have affected the Highway 313 area which provides access to Canyonlands National Park, Deadhorse State Park, several important Jeep Safari routes, the Navajo Rocks mountain bike trail systems, extensive iconic climbing areas, along with many additional recreation assets. The proposal also implicated several other popular recreation areas—some already impacted by oil and gas development—including the Gemini Bridges Road, Amasa Back, and the Kane Creek Road, Long Canyon, Potash Road, and others popular with mountain bikers, rock climbers, BASE jumpers, and OHV enthusiasts, as well as for desert bighorn sheep habitat. The area also hosts several recreation events such as the Red Hot and Deadhorse ultramarathon trail races which bring hundreds of tourists to Moab each year. Oil and gas development here would have disrupted popular and unique recreation opportunities and required a significant increase of industrial truck traffic and road improvements that would cause major alterations to the landscape along the already crowded roads, causing significant safety concerns.

⁴¹ *More local leaders join call to prevent oil drilling near Utah national parks*, The Spectrum, July 16, 2020. Found

at <https://www.thespectrum.com/story/news/2020/07/09/grand-county-moab-send-letters-blm-stop-sale-land-oil/5407214002/>; *Worried about effects on recreation economy, Moab, Grand County urge feds to cancel energy lease sale*, Salt Lake Tribune, July 10, 2020. Found at <https://www.sltrib.com/news/environment/2020/07/09/worried-about-effects/>.

⁴² *Feds yank oil and gas leases near Arches, Canyonlands parks from upcoming sale*, Salt Lake Tribune, August 12, 2020. Found at <https://www.sltrib.com/news/environment/2020/08/12/feds-yank-oil-gas-leases/>.

⁴³ See Barnes Canyon Trailhead, Bureau of Land Management. Found at <https://www.blm.gov/visit/barnes-canyon-trailhead>.

⁴⁴ *Mountain Biking In Caliente, Nevada*, Two Wheeled Wanderer, November 25, 2022., Found at <https://www.twowheeledwanderer.com/posts/caliente-nevada-mountain-biking/>.

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⁴⁶ See Barnes Canyon Mountain Biking Trails, Trailforks. Found at <https://www.trailforks.com/region/barnes-canyon-21898/?activitytype=1&z=12.2&lat=37.59223&lon=-114.44804>.

⁴⁷ See Kershaw-Ryan State Park, Nevada State Parks. Found at <https://parks.nv.gov/parks/kershaw-ryan>.

⁴⁸ See Caliente Bike Skills Park and Trails, Trailforks. Found at <https://www.trailforks.com/region/caliente-bike-skills-park-and-trails-21899/?activitytype=1&z=13.6&lat=37.62185&lon=-114.51009>.

⁴⁹ Another bicycling event—the ninth annual Park to Park Pedal Extreme Nevada 100—attracted more than 100 cyclists pedaling through Lincoln County along Highway 93 through Caliente, Pioche and four of Nevada’s state parks: Kershaw-Ryan, Cathedral Gorge, Spring Valley and Echo Canyon. Lincoln County also includes the beautiful Rainbow Canyon, where visitors can spend their time hiking, auto touring and rock climbing. Other local hiking destinations around Lincoln County include Eagle Valley, Panaca, and Alamo. Auto tourists can also explore the “Extraterrestrial Highway” that runs adjacent to the Nevada Test and Training Range and includes Area 51.

⁵⁰ See REPORT ON THE FEDERAL OIL AND GAS LEASING PROGRAM, Prepared in Response to Executive Order 14008, U.S. Department of the Interior, November 2021. Found at <https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf>.

⁵¹ See *Interactive map of oil and gas resources in Nevada*, American Geosciences Institute. Found at <https://www.americangeosciences.org/critical-issues/maps/interactive-map-oil-and-gas-resources-nevada>.

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⁵³ See Outdoor Alliance Comments on Notice of Competitive Oil and Gas Internet Lease Sale, Nevada December 2019, Outdoor Alliance, December 2, 2019. Found at https://www.blm.gov/sites/default/files/NV_OG_20191217_Outdoor_Alliance_Protest_508.pdf.

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- ⁵⁵ See <https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf>.
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- ⁵⁹ See BLM Utah Fourth Quarter 2023 Competitive Oil and Gas Lease Sale (#DOI-BLM-UT-0000-2023-0003-EA). Found at <https://eplanning.blm.gov/eplanning-ui/project/2022373/510>.
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- ⁶⁶ Indeed, as the November 2021 DOI Report notes: “[t]he burden and expense then fall on BLM to process those parcels, triggering the dedication of BLM staff resources to analyze marginal lands that companies may not be interested in bidding

on and that may never be leased, much less developed. At the same time, sales of large amounts of low-potential land often ignite local community concerns (particularly since low-potential lands are more likely to be in areas that are not accustomed to local oil and gas development) and result in protests that are time-consuming and resource-intensive to adjudicate.” See REPORT ON THE FEDERAL OIL AND GAS LEASING PROGRAM, Prepared in Response to Executive Order 14008, U.S. Department of the Interior, November 2021. Found at <https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf>.

⁶⁷ See 16 U.S.C. § 531(a).



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