

BLM Seeks Agency Remand In Oil And Gas Lease Sales

By **Clark Mindock**

Law360 (August 2, 2021, 3:08 PM EDT) -- The Biden administration wants to take a new look at the environmental reviews for previously approved oil and gas lease sales in Utah and Colorado, telling a D.C. federal court that it is likely the analysis will be substantiated and that vacatur isn't necessary.

The Bureau of Land Management on Friday asked for permission to review the analysis of the environmental impacts of the sales in the two states, which were most recently conducted during the presidency of Donald Trump and sparked complaints by conservation group WildEarth Guardians who say the approvals violated the National Environmental Policy Act in a variety of ways.

The Biden administration said that, in light of related rulings regarding Wyoming lease sales that found those didn't adequately take into account greenhouse gas emissions impacts, BLM had determined that further reviews were necessary for the Utah and Colorado portions of the sales.

"In the instant case, federal defendants have determined that a remand is appropriate so they may further analyze the impacts of the challenged leasing decisions," BLM said, arguing that those external issues were enough to warrant a fresh look.

The filing comes amid an ongoing legal challenge to BLM's approval of hundreds of leases for drilling in Colorado, Utah and Wyoming. While the leases in all three states have been challenged, the court initially only ruled on whether the Wyoming approvals were appropriate. Those included 473 leases on roughly 460,000 acres of federal land and were sold in 2015 and 2016.

The environmental groups have complained that the environmental assessments didn't fully take into account the impact the lease sales would have on climate change, even though the preliminary, and allegedly deficient, environmental reviews did note that greenhouse gas emissions would likely increase as a result of the sales.

The court in 2019 **found that** some environmental estimates needed to have been conducted at the leasing stage rather than when drilling is directly authorized. BLM had argued that conducting the more thorough estimates and reviews would have been overly speculative at that stage. In 2016, industry groups **had also joined in** to support the government's position.

After that 2019 court ruling, BLM then took a new look, but U.S. District Judge Rudolph Contreras once again **ruled in November 2020** that a thorough environmental review and analysis of greenhouse gas impacts of the leases was still necessary. Judge Contreras said then that BLM appeared to have largely ignored the previous instructions on remand.

Following that ruling, WildEarth Guardians and the other plaintiffs filed an amended complaint in January.

The BLM declined to comment.

The environmental groups are represented by Daniel L. Timmons and Samantha Ruscavage-Barz of WildEarth Guardians and Kyle J. Tisdell and Shiloh S. Hernandez of Western Environmental Law Center.

The U.S. government is represented by Michelle-Ann C. Williams and Michael S. Sawyer of the U.S.

Department of Justice's Environment and Natural Resources Division.

The case is WildEarth Guardians et al. v. Jewell et al., case number 1:16-cv-01724, in the United States District Court for the District of Columbia.

--Editing by Amy Rowe.