

# OPEN FOR BUSINESS *(and not much else)*

## How public lands management favors the oil and gas industry

Our nation's system of national parks, national forests, and other public lands help make America unique. From the Grand Canyon to the Rocky Mountains to the southern Appalachians, public lands are managed for the benefit of all Americans.

But public lands are not only places for conservation and recreation—they are also a prime location for energy development. In fact, onshore public lands are the source of a significant amount of the nation's oil, natural gas and coal. Almost all of this energy development occurs on lands overseen by the Bureau of Land Management (BLM). The BLM manages approximately 700 million acres of minerals beneath the ground called subsurface minerals. The BLM also manages 250 million acres of public land, most of which are required by law to be managed for multiple uses—for energy and conservation, among others.

However, our new analysis shows that in practice, the BLM treats the oil and gas industry as a favored tenant, making 90% of those acres available to oil and gas drillers.

The agency is also allowing the industry to determine the fate of many lands that are better suited for recreation and other types of conservation than oil and gas development. This puts vital watersheds, critical wildlife habitat, wilderness-quality lands and popular recreation destinations a distant second in BLM's ranking of the land it oversees. As a result, the BLM is failing to live up to its stated mission "to sustain the health, diversity, and productivity of America's public lands for the use and enjoyment of present and future generations."

BLM can and should explicitly put conservation on an equal footing with development in its planning and leasing processes. The opportunity is already well within its authority and discretion. As the BLM has been reminded by federal courts: "It is past doubt that the principle of multiple use does not require BLM to prioritize development over other uses."

In this report, we detail our research about the favoritism that the BLM gives to the oil and gas industry, and provide a series of five specific policy recommendations that describe how this issue can be resolved.



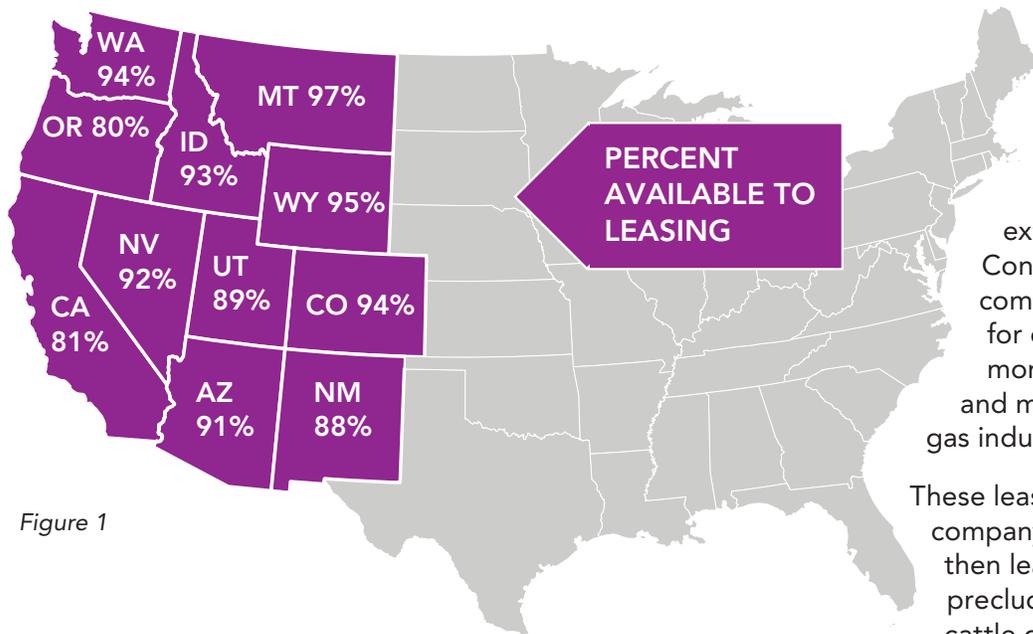


Figure 1

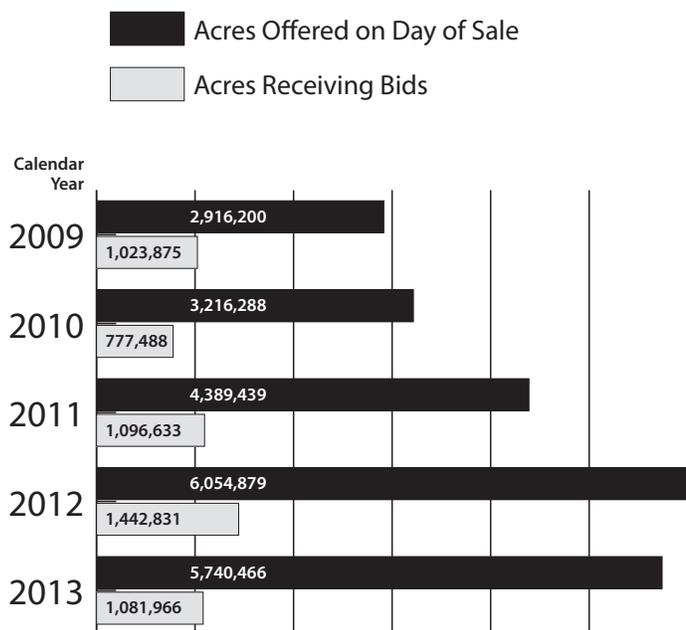
## THE OIL AND GAS INDUSTRY LOCKS UP THE LAND

While the BLM is managing an extraordinary set of places as National Conservation Lands, their acreage pales in comparison to those available and leased for oil and gas development. Currently, more than 36 million acres of federal land and minerals are under lease by the oil and gas industry.

These leases last at least 10 years whether the company drills or not, and if wells are drilled, then leases can be extended for decades, precluding other activities like recreation, cattle grazing or hunting. The lands

under lease also take away the opportunities to manage these lands for conservation purposes, including protecting watersheds and wildlife habitat.

Additionally, of the 36 million acres under lease, only 12.6 million acres (35%) are in production – leaving 23.4 million acres of American land locked up by the oil and gas industry. Drilling permits are another resource that oil and gas companies are hoarding – with more than 6,700 approved drilling permits (APD) going unused by the industry.



Acres Bids Table

BLM Resource Management Plans (RMP), which act as a framework for assigning multiple uses, now contribute to giving oil and gas priority. The plans are written with general guidelines for all of the public lands and minerals within their respective management areas; they dictate the activities that can take place on those lands. However, these plans have historically defaulted to making lands open to leasing – implying that the public lands should be kept available for whenever the oil and gas industry wants to lease them, giving short shrift to other recreation and conservation values. Given that the vast majority of lands are available for leasing, the deck is effectively stacked against actually considering other uses for public lands once they are in the lease nomination process.

Further, the failure to truly address conservation is visible in the current oil and gas leasing process. Companies can nominate any lands that are not identified as being closed to leasing in the RMP, even if the BLM has found those lands to have little or no

oil and gas potential. Upon nomination, the parcel of land is subjected to an environmental assessment by the BLM before it is put up for lease, but at this stage, the agency rarely considers the actual oil and gas potential of the lands and whether, in light of that potential, they should be leased.

The agency's obligation to give due consideration to the many values of the public lands, balancing development and conservation, should be reflected in its decisions on whether to open or close public lands to leasing in current efforts to revise RMPs and modernize its approach to land use planning, as well as in updating leasing practices.

## **BLM HAS THE AUTHORITY TO DO BETTER, AND SHOULD**

BLM's current guidance provides that "in some cases, leasing of oil and gas resources may not be consistent with protection of other important resources and values" and that "under applicable laws and policies, there is no presumed preference for oil and gas development over other uses." This recognition supports a more fair consideration of conservation not just in the leasing process but also in the governing RMPs – so that only appropriate lands are made available for leasing and other lands are actively managed for their conservation values.

Additional changes are needed in the planning process to ensure this guidance is considered, and that a better allocation of land uses results. The BLM uses strict standards for deciding which lands should be managed as "recreation management areas" or as areas of critical environmental concern but does not use similar standards for oil and gas leasing. Instead, wherever the BLM has discretion, the agency routinely opens land to oil and gas leasing - generally irrespective of actual extraction potential.

This approach leaves large swaths of land open to oil and gas leasing regardless of whether that is the best use for the land. The excessive amount of land left open for leasing allows the industry, rather than the agency or the public, significant influence in determining whether or not the land is leased and developed or left in its natural state.

More proactive approaches to conservation will not deprive the oil and gas industry of lands to lease and develop. There is significant acreage already under lease, while millions of these acres are not being developed and thousands of permits to drill go unused. In addition, while the industry continues to nominate more and more acreage for lease (Figure 1), much of that acreage never even receives bids at auction (Acres Bids Table).

The current process forces the BLM to spend time, energy, and resources conducting safety and environmental reviews for far more acres and permit applications than will ever be used – certainly not the best use of its limited budget.



## **EXAMPLES OF POOR OIL AND GAS DEVELOPMENT**

In the Kremmling (Colorado) Field Office, the BLM had identified an area with no active oil and gas leases or wells as having "no potential" for development. The area was undeveloped, provided important big game habitat, was used for ranching and was within a recreation management area managed for diverse recreation (which included a special permit for guided horseback rides and another for a relay race). The BLM had nonetheless left the area available for leasing and it was included in a lease sale in May 2013.

Nevada, where most plans did not predict high energy potential but also did not close areas to leasing, is now seeing quite a bit of interest in areas that do not have many other resource protections. The rush of leasing has given rise to numerous lease sale protests from ranchers, conservation groups, farmers and counties – a clear sign that leasing has not been well-considered.

The Pocatello Field Office in Idaho has never had a producing oil and gas well, but the current RMP has only closed 3% of the land to oil and gas leasing.

## HOW THE BLM CAN DO BETTER

Conserving our public lands is a vital part of ensuring they continue to provide multiple uses (including energy development, fish and wildlife habitat, recreation and wilderness). True multiple use and sustained yield means ensuring some lands stay in their natural condition and are managed for conservation, while others are made available for development. Both of these decisions require careful and thorough consideration.

BLM has acknowledged the many values of its lands rather eloquently in its oil and gas guidance and this should now be incorporated into its approach to land use planning, including through its current Planning 2.0 initiative to embrace landscape level planning and the data generated from its Rapid Ecoregional Assessments.

To help restore balance, the BLM should:

**1 IDENTIFY AREAS FOR CONSERVATION:** Conservation values like wildlife, recreation and wilderness are important uses of our land and should be addressed in the initial stages of the planning processes. Planning should begin with an analysis of areas that provide important conservation values. These lands should then be considered for proactive conservation before they are leased and turned over to the oil and gas industry, foreclosing chances for protection.

**2 DO NOT DEFAULT TO LEAVING AREAS OPEN FOR LEASING:** Lands should only be made available for oil and gas leasing if they have moderate to high potential for development and this use will not conflict with other substantial values.

**3 IDENTIFY AREAS THAT ARE MOST APPROPRIATE FOR OIL AND GAS DEVELOPMENT:** Some lands are simply inappropriate for development and the BLM should guide leasing to areas that have been pre-screened as possible development areas. As stated by Interior Secretary Sally Jewell, we should be “guiding development to the areas of highest resource value and lowest environmental concern.” Where resource conflicts exist, plans should encourage leasing in designated areas first and incorporate strong protections if these lands are made available.

**4 ADDRESS IMBALANCES IN EXISTING PLANS:** Use the data gained through the Rapid Ecoregional Assessments, ongoing inventories of lands with wilderness characteristics and cultural resources, and research regarding the best ways to protect fish and wildlife habitat within existing management plans. These protections can be incorporated into ongoing amendments for specific projects or into targeted amendments going forward, while also deferring leasing in areas with high conservation and recreation values until these actions can be evaluated and incorporated.

**5 INCORPORATE MASTER LEASING PLANS (MLP):** MLPs are already being used to develop a more informed and balanced approach to leasing and development in areas where there are ongoing conflicts between oil and gas and other resources, such as recreation, fish and wildlife habitat and cultural resources. The BLM should make MLPs a priority by completing those already in process, identifying and commencing new MLPs and incorporating explicit direction to look for opportunities to use this tool in guidance, such as the revised planning handbook.

## EXAMPLE OF SMART PLANNING

The National Petroleum Reserve – Alaska, in northern Alaska, is an example of smart planning. Here, the BLM examined the whole of the Reserve, and identified key wildlife habitat for caribou and migrating birds, as well as the oil and gas deposits. They came out with a plan that kept more than 11 million acres off-limits to drilling, protecting 95% of key caribou and waterfowl habitat, while still keeping more than 70% of the available oil and gas accessible. This balanced approach met the needs of the wildlife, people, and fossil fuel interests in the region by putting energy and conservation on equal footing.

The BLM has begun using a “smart” tool called a Master Leasing Plan. Fifteen of these plans are already under development or are slated for preparation, including for high conflict areas like lands surrounding Dinosaur National Monument in Colorado and the popular mountain bike destination Moab, Utah. Master Leasing Plans do a lot of the upfront work to identify the values of lands in a field office jurisdiction, and incorporates scientific data and community input into balancing leasing decisions. These plans reduce conflict, protect wildlife habitat and watershed quality, and still allow for oil and gas drilling – but do so in a balanced way. The BLM needs to incorporate more of this kind of thinking into their overall decision making process with RMPs, and make sure that drilling is done in the right place at the right pace, and that places that are too wild to drill are kept protected.