



Lawsuit Challenges Three BLM New Mexico Lease Sales in 2008

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On April 29, 2009, WildEarth Guardians and two other environmental groups filed a lawsuit in New Mexico federal court against the Bureau of Land Management (BLM) and U.S. Forest Service. This suit challenges three New Mexico BLM quarterly lease sales, held in April, July, and October 2008. This lawsuit has potential serious ramifications on leases issued by BLM in 2008, but also on pending permits and new development projects on existing federal leases.

Plaintiffs' primary allegation is that BLM and the Forest Service violated the National Environmental Policy Act (NEPA) by failing to analyze ground-level ozone levels in the San Juan Basin and impose lease stipulations to limit emissions that may contribute to increased ozone levels. Plaintiffs request that the court set aside BLM's leasing decisions approving the lease sales and enjoin all oil and gas activities on the leases sold at the sale until BLM and the Forest Service perform additional NEPA analyses and issue new leasing decisions.

Companies that invested in any of these challenged lease sales should consider intervening in the suit to protect their interests, particularly since the Department of the Interior under President Obama's Administration has been seeking to "settle" these types of lawsuits on terms advanced by the environmental plaintiffs.

In addition, because the lawsuit also challenges the underlying BLM and Forest Service land use plans, companies with pending permits and plans of development on existing federal leases should also consider intervening. As we have seen in similar lawsuits in the West, BLM and the Forest Service often put a halt on processing permits and new projects on existing leases

until after resolution of the legal challenge to the underlying land use plans. To avoid this de facto moratorium and stranded investment resulting from substantial delay on new development, companies should proactively engage the federal agencies and provide them with a legal road map that would allow their projects and permits to move forward.



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