

BLM Oil and Gas Leasing Policy: A Litigator's Perspective

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Disclaimer

- ❖ My opinions only, do not reflect the opinion or position of the clients I represent in any case
- ❖ (Also solely responsible for the cheesy GIFs)



Introduction



Where we are going

- ❖ Background on Law
- ❖ Background on Oil and Gas Leasing Program
- ❖ Example Cases
- ❖ What now?



Relevant Laws

- ❖ Administrative Procedure Act
- ❖ National Environmental Policy Act
- ❖ Federal Land Policy and Management Act
- ❖ Mineral Leasing Act
- ❖ Endangered Species Act

BLM Onshore Oil and Gas Leasing Program



Land Use Plan

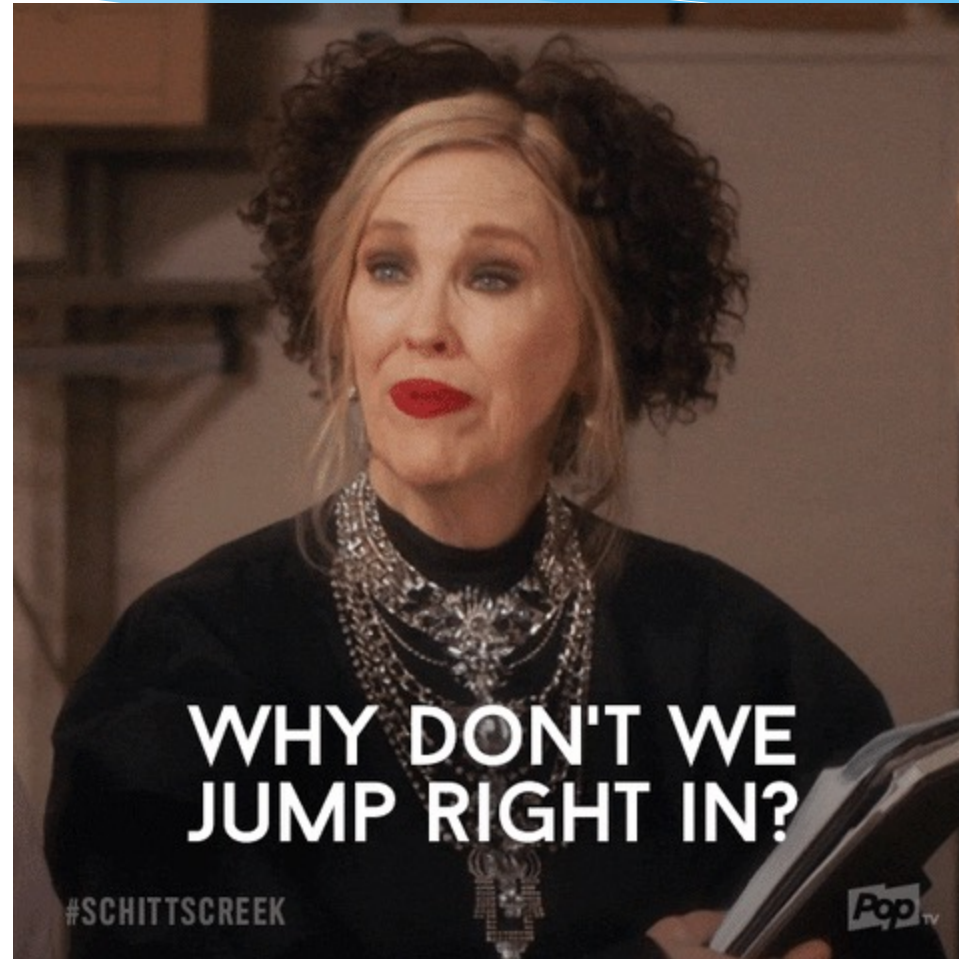
Instruction Memoranda

Lease Sale

Executive Orders

APD

Regulatory Updates



NEPA Sufficiency Cases

❖ NEPA Greenhouse Gas Challenges

- ❖ *WEG v. Haaland*—(3 related cases) D.C. District Decisions March 19, 2019 and November 13, 2020
- ❖ *WEG v. Bernhardt*—D. N.M. Decision Nov. 19, 2020

FLPMA Cases

❖ Lease Sale Litigation: NEPA/FLPMA Procedural Challenges

❖ *MWF v. Haaland*:

- ❖ Prioritization Decision May 22, 2022

❖ *Western Watersheds Project v. Zinke*:

- ❖ Public Participation Decision February 27, 2020

- ❖ But, different result in N.M. (*WEG v. Bernhardt*—D. N.M. Decision Nov. 19, 2020)

BLM to Courts (probably)



BLM's Attempts on GHG Analysis

❖ Executive Order 13990 (EO) Litigation:

- ❖ *Missouri v. Biden* — Court dismissed State's challenge to EO
- ❖ *LA v. Biden* — Court denied dismissal, preliminary injunction on EO granted
 - ❖ DOJ Announcement — staying all NEPA reviews (therefore presumably delaying lease sales) while they re-evaluate.
 - ❖ Eventually stayed by the 5th Circuit.

Legislation

❖ Inflation Reduction Act

❖ Leasing Requirements—Tying ROW Approval to Lease Sales

What now?



Questions?



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