

U.S. Bureau of Land Management Violated NEPA When Selling Oil and Gas Leases in California | 1



On April 8, a federal magistrate judge issued the first major ruling in a California fracking lawsuit, finding that the U.S. Bureau of Land Management (BLM) violated the National Environmental Policy Act (NEPA) by failing to take the necessary “hard look” at the impact of hydraulic fracturing when it sold oil and gas leases in California.

The Northern District of California court held that when BLM sold four leases in 2011 for 2,700 acres of federal land in Monterey and Fresno counties, it violated NEPA by relying on outdated environmental reviews that did not address the increased prevalence of fracking in California and nationwide. The court found that BLM’s dismissal of development scenarios involving fracking as “outside of its jurisdiction” was insufficient to provide the “hard look” at environmental consequences required by NEPA.

This decision may have far-reaching implications because BLM is responsible for leasing oil and gas resources on all federally owned lands. BLM manages approximately 248 million acres and is responsible for about 700 million acres of subsurface mineral resources in the United States – much of it concentrated in the West. In addition, some of the land covered by the challenged federal leases is located in California’s Monterey shale formation, which is estimated to hold 15.4 billion barrels, or 64 percent of the nation’s total shale oil resources.



The ruling came in response to a lawsuit brought by the Center for Biological Diversity and the Sierra Club, challenging a September 2011 decision

by BLM to auction off the acres of land in southern Monterey County to oil companies. Among other claims, plaintiffs alleged that BLM failed to address the impacts to water quality and other resources that result from hydraulic fracturing. The parties also directly [protested](#) the lease sale before it was finalized, urging preparation of a full environmental impact statement that analyzes potential water, endangered species, and climate change impacts, including potential impacts from fracking wastewater. (For those interested in keeping up with future BLM auctions for oil and gas leases on California lands, you can track these [here](#).)

The court has asked for a joint recommendation on the proper remedy and next steps in this case by April 15. According to their [press release](#), the Center and the Sierra Club believe the lease sale should be set aside.

This Thursday, Berkeley Law's Center for Law, Energy & the Environment ([CLEE](#)) will release a new report on hydraulic fracturing in California, focusing on fracking wastewater and potential water impacts. Co-authored with Michael Kiparsky of CLEE's new Wheeler Institute for Water Law & Policy, the report addresses the technical process, regulatory framework, and potential near-term changes to fracking in the State driven by pending agency rulemakings, lawsuits, and legislation. We also provide recommendations for more stringent oversight and transparency in fracking operations.