

US Court Weighs Tossing 2021 Offshore Lease Sale

An offshore oil and gas lease sale that President Joe Biden's administration held last year appears at risk of being invalidated or suspended, depending on how a court responds to a lawsuit by environmentalists.

That November 17th offshore lease sale drew \$192mn in high bids from Chevron, ExxonMobil, BP and other companies that bid on 303 tracts in the US Gulf of Mexico. The Biden administration had tried to defer the sale, but it was forced to move forward by a federal judge in Louisiana who last summer barred any further "pause" of leasing.

But a separate federal judge last week hinted there could be problems with the environmental analysis behind the sale, called Lease Sale 257. That has set off alarms among offshore producers, who worry an unfavorable ruling could jeopardize their investments or reveal confidential bidding strategies based on proprietary drilling information.

"It is impossible for Lease Sale 257 to be 're-held' in a fair and competitive manner," Chevron land manager Kyle Gallman wrote in a court declaration on January 24th.

The judge overseeing the case, US district court judge Rudolph Contreras, is reviewing a lawsuit from environmentalists that faults the Interior Department for "incredulously" saying that while the lease sale could result in the production of up to 1.1bn bl of crude and 4.4 Tcf of natural gas, holding the sale would actually reduce greenhouse gas emissions.

Contreras, in a January 19th order, asked the Biden administration to brief the court on how it would proceed to a "hypothetical" court ruling requiring a do-over of the government record supporting the sale. Among his questions were whether offshore companies would have to submit a new round of secret bids in that case, and how the results of Lease Sale 257 would be affected if he vacated the underlying record.

That hypothetical has sparked alarm from offshore producers. Chevron, Shell, BP and ExxonMobil in court filings said it would be impossible to fairly redo the sale based on new bids, since their secret bids are now public. Louisiana and industry groups have also urged the court to uphold the record.

"Given the significant commercially disruptive consequences of impacting the results of Sale 257 — especially now that the sealed bids have been opened — any form of relief

that threatens the progression of Sale 257 must be avoided," industry group American Petroleum Institute said.

The Interior Department has yet to formally award leases from last year's sale, according to a January 24th court response. If the court requests a redo of the record, Interior said it could prepare a new climate analysis and then decide whether to affirm or void the leases, without having a new round of confidential bids. But Interior said if the record is thrown out, it would have no choice but to void every lease and refund all money it received.

"The vacatur of the sale would remove any discretion that Interior has over Lease Sale 257 because it would entirely negate the sale," Interior said.

The environmental groups behind the lawsuit, in their own court response, say vacatur is the only way to make sure Interior starts from a "blank slate" when determining whether to hold the lease sale. They noted that when Interior updated its climate analysis for an upcoming sale of acreage in Alaska's Cook Inlet, it found not holding the sale would avoid 31mn metric tonnes of CO₂, rather than reducing greenhouse gas emissions.