Decision Notice and Finding of No Significant Impact for the
Ruby Mountains Oil and Gas Leasing Availability Analysis

Photo: Ruby Mountains, Elko County, Nevada

USDA Forest Service
Humboldt-Toiyabe National Forest
Mountain City, Ruby Mountains, Jarbidge Ranger District
Elko County, Nevada

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Lead Agency: USDA Forest Service, Humboldt-Toiyabe National Forest

Responsible Official: William A. Dunkelberger, Forest Supervisor

Cooperating Agencies: US DOI Bureau of Land Management
Elko County, Nevada
Nevada Department of Wildlife

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INTRODUCTION

The Humboldt-Toiyabe National Forest, Mountain City, Ruby-Jarbridge (MCRJ) Ranger District received a request dated August 1, 2017 from the Nevada Bureau of Land Management (BLM) State Office asking the Forest Service for oil and gas leasing concurrence, along with any stipulations to protect surface resources. The request originated from an expression of interest received by the BLM from a member of the public and included National Forest System (NFS) lands. In response to the BLM request, the MCRJ Ranger District prepared an Environmental Assessment (EA) to determine the availability of the requested NFS lands located within 90 land sections, totaling approximately 52,533 acres\(^1\), along with determining resource protection measures (stipulations) for future oil and gas leasing by the BLM. The lands within the analysis area are located in the Ruby Mountain Range, Elko County, Nevada and legally described in Appendix A of the EA and attached to this decision.

Elevations of the analysis area range from 6,000 to 10,800 feet above sea level. The Ruby Mountains are well-known for their scenic, glaciated U-shaped valleys and mountainous peaks, alpine clear blue lakes, alpine vistas, waterfalls and hanging valleys. These glaciated landscapes are nationally renowned and can be seen from the Lamoille Canyon Scenic Byway and the nearby valleys. Valleys to the north are occupied by the residential housing subdivisions of Spring Creek, NV and Lamoille, NV with views of the glaciated peaks of the Ruby Mountains. The South Fork Indian Reservation, South Fork reservoir and the town of Jiggs are located to the west. Adjacent ranching communities and the Ruby National Wildlife Refuge, which encompasses Ruby Lake (a major bird flyway migration corridor), and are located to the east. The Ruby Mountains are bisected by the popular Ruby Crest National Recreational Trail.

In accordance with the National Environmental Policy Act (NEPA) and the Minerals Leasing Act, the MCRJ Ranger District prepared an EA for oil and gas leasing availability for these lands within the analysis area. William Dunkelberger, Forest Supervisor and responsible official, must decide: 1) what NFS lands within the analysis area administered by the Humboldt-Toiyabe National Forest would be made administratively available or not available to the BLM for future oil and gas leasing in accordance with 36 CFR 228 and 2) for those lands made available for future leasing, what stipulations and notices needed to protect resources (36 CFR 228.102(d)) would be attached to a future lease. The Forest Service will notify the Nevada BLM State Director of its Final Decision.

BACKGROUND

The purpose of this action is to determine what lands, as requested by the BLM and located on the Humboldt-Toiyabe National Forest MCRJ Ranger District, would be available or not available for future oil and gas leasing conducted through lease sales by the BLM. For NFS lands made available, the Forest Service would provide consent to the BLM for leasing of lands, along with any stipulations/lease notices to protect surface resources. The need for action is to respond to the Nevada State BLM Office request asking for leasing concurrence and to satisfy the Forest Service’s respective statutory and policy mandates of responding to such requests for the environmentally responsible development of energy resources.

The BLM and Forest Service have shared responsibilities for oil and gas leasing on NFS lands. The BLM is responsible holding sales and issuing oil and gas leases on Federal lands, including NFS lands. The BLM cannot offer NFS lands and issue leases for oil and gas leasing without the Forest Service first providing a consent to lease decision.

\(^1\) Acreage figures based on GIS calculations of analysis area and is an approximate calculation. Acreage figures subject to change based on actual surveyed acres within each section.
Leasing is authorized under the Mineral Leasing Act of 1920, as amended and modified by subsequent legislation, and Department of the Interior BLM regulations found at 43 CFR 3100. Oil and gas leasing is recognized as an acceptable use of public lands under the Federal Land Policy Management Act. The Nevada BLM conducts quarterly lease sales. Once a parcel is leased, the lessee has the ability to develop the lease by exploring, drilling, and producing all of the oil and gas within the lease boundaries extended vertically below the surface, subject to stipulations and notices attached to the lease (Title 43 CFR 3101.1–2). Leases are issued for a 10-year period and continue as long as oil or gas is produced in paying quantities. Leasing availability decisions by the Forest Service and leasing issuance by the BLM do not approve any ground disturbing activities. Any future ground disturbing activities proposed following post-leasing would require additional NEPA.

During the environmental analysis, all of the NFS lands within the analysis area were determined to be encumbered by No Surface Occupancy (NSO) stipulations to conform to the Forest Plan, as amended, in order to protect resource values (as discussed in the EA and shown in Appendix B of the EA). The rationale behind applying No Surface Occupancy is to protect the high value resources in the analysis area including, but not limited to, the presence of Threatened Lahontan Cutthroat Trout and its habitat, lands lying within inventoried roadless areas (IRAs), occurrence of steep slopes, streams, riparian areas, crucial and transition range mule deer habitat, proximity to greater sage-grouse leks and greater sage-grouse priority habitat, as described in the EA analysis. A NSO stipulation is restrictive to the surface and no surface drilling activity can occur where applied, however, NSO does not prohibit subsurface exploration and development beneath NFS lands accessed by directional drilling or well spacing from leases on adjacent lands. Oil and gas reserves may be tapped without disturbing the surface through directional drilling or well spacing. For example, where a lessee holds a lease without NSO stipulations on BLM/private lands and also holds a lease on adjacent NFS lands with NSO stipulations, the lessee has the right to extend directional drill legs from nearby leased lands beneath the surface of NFS leased lands with NSO stipulations. Types of activities that can still occur from adjacent leases and extend beneath leased NSO lands include horizontal or directional drilling legs and any of the stimulation or completion techniques (includes hydraulic fracturing) along those legs.

In Huntington Valley, approximately seven miles to the west of the analysis area on BLM-managed lands, there is moderate to high oil and gas potential and some past interest in oil and gas. In the past fifteen years, three wells have been drilled and subsequently plugged and abandoned (2007, 2008 and 2017). One of these wells was drilled by Noble Energy, Inc., and produced approximately 3,000 barrels of crude oil in 2015. The well was plugged and abandoned in 2017 due to Noble Energy electing to discontinue exploration in northeastern Nevada after assessing the commercial viability in the commodity environment. In March 2018, the BLM offered three parcels in Huntington Valley in a competitive oil and gas lease sale in close proximity to the analysis area; none of these nearby parcels received bids. Currently, there are no active oil and gas drill rigs or operations on public lands in Elko County.

**DECISION**

I have decided to select the No Leasing Alternative (as described below and analyzed in the Final EA for the Ruby Mountains Oil and Gas Availability Analysis) for all of the NFS lands within the analysis area, totaling approximately 52,533 acres. Under the No Leasing Alternative, the lands within the analysis area will not be available to the BLM for oil and gas leasing. The Forest Service will convey this decision to the BLM to not consent to oil and gas leasing for any lands within the analysis area.

These NFS lands are legally described in Appendix A of the Final EA and attached to this decision and shown in Figure 1 below. The No Leasing Alternative will meet the purpose and need by: responding to
the BLM request to satisfy statutory and policy mandates, making a decision to determine the leasing availability of these lands, and providing environmentally responsible management of NFS lands.

DECISION RATIONALE

My decision is based on the analysis in the EA, the findings in the Finding of No Significant Impact and the supporting documentation in the Project record. No single factor lead to my decision, and the primary factors that I considered are listed below:

- Public Concerns – The Forest received thousands of comments from the local area, the state of Nevada, and from across the nation. The majority of these commenters expressed strong opposition to the project, and many provided clear rationale for selecting the No Leasing Alternative. The overwhelming majority of public comments align with my decision to select the No Leasing Alternative.

- Geologic Conditions – With the overall unfavorable, non-conducive oil and gas geologic conditions and the No to Very Low to Low Potential for oil and gas, these lands have low energy resource values. In addition, with the lands encumbered and restricted by NSO stipulations to protect surface resources as determined by the analysis, the surface use is restricted and less desirable for leasing from an industry viewpoint. Offering low energy resource value and high resource value lands with restrictive stipulations to the BLM for leasing would not serve the best interest of the public from an industrial or environmental perspective. The unsuccessful oil and gas development history of the adjacent leased lands in Huntington Valley additionally supports my decision to not make these NFS lands available for oil and gas leasing.

- Natural Amenities – The analysis highlights the amenities that the Ruby Mountains provide including outstanding recreational opportunities, high quality scenery, biodiversity, watershed values, and grazing resources. The importance of these amenities to the local community, State residents and tourists was clearly articulated in the public comments received. I believe that protecting these amenities is best met by selecting the No Leasing Alternative.

- Consideration of Environmental Effects – The analysis summarizes the adverse environmental effects that would occur if the lands were to be available for leasing. Even with the multiple No Surface Occupancy stipulations applied, the cumulative effects would be noticeable. These effects include increased noise, dust and light pollution, and disturbance to wildlife and fisheries. These adverse effects outweigh the benefits that could result from oil and gas development.

- Tribal Concerns - I understand that the analysis area is within the traditional homeland of the Western Shoshone people who have strong ties to the Ruby Mountains, including those tribal members who live on the South Fork Reservation. I believe my decision best respects tribal values that have been expressed throughout the analysis.

- Economic Considerations – I have weighed the economic benefits that could be realized if these lands were leased. Based upon the Reasonably Foreseeable Development Scenario detailed in the Environmental Assessment, I believe the economic benefits would be limited in comparison to the economic benefits that are presently realized by the economic contributions currently being provided by the Ruby Mountains. These contributions to the local and state economy are coming primarily from tourism, recreation, and livestock grazing. Any monetary losses from the No Leasing Alternative are strongly outweighed by benefits presently provided.
PUBLIC INVOLVEMENT SUMMARY

The Forest Service initiated public scoping on September 29, 2017 with the mailing of a scoping letter to potentially interested parties. The project was listed in the Forest’s Schedule of Proposed Actions in September 2017. Concurrently with scoping, the Forest Service published a legal notice on October 3, 2017 initiating a 30-day comment period as required under its regulations at 36 CFR 218 parts A and B. The legal notice for this project was published in the Elko Daily Free Press on October 3, 2017. Due to the high interest of this project and to ensure that the public’s comments were heard and considered, an additional 15 day comment period was initiated on April 6, 2018.

From these two comment periods, the Forest Service received thousands of public comments (written and verbal), the majority of which were form letters from non-governmental organizations. I appreciate the hundreds of hours that people (including many local residents, non-governmental organizations and Tribal members) spent providing comments expressing their concerns, opinions and opposition. This input was helpful and factored in my decision. An overwhelming majority of the comments received were opposed to oil and gas leasing in the Ruby Mountains on NFS lands. Public comments consistently stated that the Ruby Mountains are widely recognized for their high quality resource and recreational values and that they should be protected from oil and gas leasing and development. Comments from local scientists and State agencies questioned the speculative interest in an area of no to low likelihood for oil and gas occurrence. Comment highlights included opposition letters from numerous citizens, residents of Elko County, environmental groups, Western Shoshone Defense Project, a U.S. Senator, and the printing of a full page color ad in the Elko Daily Free Press by a coalition of business leaders, outdoor enthusiasts and environmental groups opposing the project.

TRIBAL INVOLVEMENT SUMMARY

Native American tribal coordination was initiated on September 27, 2017 with the mailing of a letter to local tribal governments. An information sharing meeting was held with representatives of the Te-Moak Tribe of Western Shoshone and Elko Band on October 23, 2017. Consultation with the Duck Valley Tribe occurred on October 24, 2017 and May 22, 2018 during the Wings and Roots meeting. An additional information sharing meeting was held between USFS, Elko Band, South Fork Band, Te-Moak Tribe, and Inter-Tribal Council of Nevada on March 22, 2017. Recent outreach to the Elko Band, Battle Mountain, and Te-Moak Tribes occurred in May 2018. Consultation with the Wells Band was held on June 13, 2018 during the closed session of their regular council meeting. Tribal representatives voiced opposition to the proposed action for several reasons including the potential for impacts to cultural resources, the potential for impact to ground and surface water, and the potential to impact wildlife and fisheries. All the Tribes that the Forest Service met with are in support of the No Leasing Alternative. Tribal consultation is ongoing.

OTHER ALTERNATIVES CONSIDERED

I also considered the Proposed Action and the No Action Alternative.

Proposed Action: Under the Proposed Action, all of the NFS lands within the analysis area (totaling approximately 52,533 acres) would be made available for future oil and gas leasing by the BLM, subject to surface resource protection stipulations/lease notices. The Forest Service would authorize the BLM to offer the NFS lands for lease.

No Action Alternative: Under No Action, a decision on whether the requested lands are available or not for future oil and gas leasing would not be made by the Forest Service and the lands would remain unresolved in pending status with the BLM and in need of future environmental analysis. Current management plans would continue to guide management of the analysis area.
Figure 1. Draft Decision Map
FINDING OF NO SIGNIFICANT IMPACT

As the responsible official, I am responsible for evaluating the effects of the project relative to the definition of significance established by the CEQ Regulations (40 CFR 1508.13). I have reviewed and considered the EA and documentation included in the project record, and I have determined that selecting the No Leasing Alternative will not have a significant effect on the quality of the human environment. As a result, no environmental impact statement will be prepared. My rationale for this finding is as follows, organized by sub-section of the CEQ definition of significant cited above.

Context
Context is a measure of the scale of effects. I have considered the context of my decision to make all lands unavailable for leasing and have determined that the effects of this decision are local in nature.

Intensity
Intensity is a measure of the severity, extent, or quantity of effects, and is based on information from the effects analysis of this EA and the references in the project record. The effects of this project have been appropriately and thoroughly considered with an analysis that is responsive to concerns and issues raised by the public. The agency has taken a hard look at the environmental effects using relevant scientific information and knowledge of site-specific conditions gained from field visits. My finding of no significant impact is based on the context of the project and intensity of effects using the ten factors identified in 40 CFR 1508.27(b).

1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.
   Making all lands unavailable for leasing does not create any adverse or beneficial effects. Consideration of both beneficial and adverse effects related my decision were taken into account during the analysis.

2. The degree to which the proposed action affects public health or safety.
   Making all lands unavailable for leasing does not affect public health or safety.

3. Unique characteristics of the geographic area such as the proximity to historical or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
   Making all lands unavailable for leasing does not affect any unique characteristics of the analysis area.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.
   Controversy in this context refers to situations where substantial dispute as to the effects of the action rather than opposition to the project. Making all lands unavailable for leasing does not involve any effects that are considered controversial.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
   Making all lands unavailable for leasing does not involve any highly uncertain effects or involve unique or unknown risks.
6. The degree to which the action may establish precedent for future actions with significant effects or represents a decision in principle about a future consideration.

Making all lands unavailable for leasing does not set any precedent for future actions.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

Making all lands unavailable for leasing does not involve any significant cumulative effects.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

Making all lands unavailable for leasing will not adversely affect any significant scientific, cultural, or historical resources.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

Making all lands unavailable for leasing will not adversely affect any endangered or threatened species or its habitat.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

Making all lands unavailable for leasing is in compliance with all Federal, State, or local law or requirements imposed for the protection of the environment.

CONCLUSION

After considering the environmental effects described in the EA and specialist reports, I have determined that making all lands unavailable for leasing by selecting the No Leasing Alternative will not have significant effects on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

My decision is consistent with all applicable laws, regulations and policies for the protection of the environment. My decision is an administrative action that does not involve any ground disturbing activities. My decision is consistent with the intent of the Forest Plan's long term goals and objectives for minerals management and protection of surface resources.

ADMINISTRATIVE REVIEW/ RESULTS OF PRE-DECISIONAL OBJECTION PROCESS

Those who submitted substantive formal comments related to the proposed action during the 30-day opportunity to comment period were eligible to file an objection pursuant to 36 CFR 218. The 45-day objection period began with the publication of the legal notice for the draft decision in the Elko Daily Free Press, the newspaper of record, on March 16, 2019. The publication date in the newspaper of record is the exclusive means of calculating the time to file an objection. The objection period ended on April 30, 2019. Several comments in support of the alternative proposed for authorization in the draft
Decision were received. No objections were submitted that opposed the alternative proposed for authorization.

IMPLEMENTATION

Because no such objections were received, the final decision may be signed on, but not before, the fifth business day following the end of the objection period (see: 36 Code of Federal Regulations 218.12(c)(2)).

CONTACT

For further information concerning this Project and decision, contact Josh Nicholes at (775) 778-6109 or email at jnicholes@fs.fed.us during normal business hours.

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Appendix A: Legal Description of NFS Lands within the Analysis Area pertaining to this Decision

All lands are located within the Mount Diablo Meridian, Nevada, and further described as follows:

T. 26 N., R. 56 E.,
Sec. 1, Lots 1 thru 4;
1, S1/2NE1/4, S1/2NW1/4, S1/2;
2, Lots 1 thru 4;
2, S1/2NE1/4, S1/2NW1/4, S1/2;
3, Lots 1 thru 3;
3, S1/2NE1/4, SE1/4NW1/4, SE1/4.

T. 26 N., R. 56 E.,
Sec. 4, Lots 3 thru 8;
4, SW1/4NE1/4, S1/2NW1/4, SW1/4,
NW1/4SE1/4;
5, Lots 1 thru 4;
5, S1/2NE1/4, S1/2NW1/4, S1/2.

T. 26 N., R. 56 E.,
Sec. 8,
9, Lots 1 thru 4;
9, SW1/4NE1/4, NW1/4, SW1/4,
NW1/4SE1/4;
16, W1/2NE1/4, NW1/4, SW1/4, NW1/4SE1/4;
17.

T. 26 N., R. 56 E.,
Sec. 10,
15, N1/2, NE1/4SW1/4, N1/2NW1/4SW1/4,
N1/2NE1/4SE1/4, S1/2SW1/4SW1/4,
N1/2SE1/4SW1/4SW1/4, S1/2N1/2SE1/4SE1/4.

T. 26 N., R. 56 E.,
Sec. 11 thru 14.

T. 27 N., R. 56 E.,
Sec. 1, Lots 1 thru 4;
1, S1/2NE1/4, S1/2NW1/4, S1/2;
2, Lots 1, 2, 5;
2, SE1/4NE1/4, SE1/4;
11, NE1/4, E1/2NW1/4, NW1/4NW1/4,
N1/2SW1/4NW1/4, N1/2SE1/4SW1/4NW1/4,
S1/2SW1/4SW1/4, N1/2NE1/4SE1/4,
N1/2SE1/4NE1/4SE1/4;

12, N1/2, N1/2SW1/4, SE1/4.
T. 27 N., R. 56 E.,
Sec. 13, S1/2, S1/2NW1/4, NE1/4
23, and 24,
14, S1/2NE1/4, S1/2NW1/4, S1/2NW1/4NW1/4,
NW1/4NW1/4NW1/4,
S1/2NE1/4NW1/4NW1/4,
NW1/4NE1/4NW1/4NW1/4,
SW1/4NE1/4NW1/4,
SW1/4NW1/4NE1/4NW1/4,
S1/2SE1/4NE1/4NW1/4,
NW1/4SE1/4NE1/4NW1/4, S1/2SE1/4,
S1/2SW1/4

T. 27 N., R. 56 E.,
Sec. 25, and 26;
35, N1/2, N1/2SW1/4, SW1/4SW1/4, N1/2SE1/4;
36, N1/2, N1/2SW1/4, SE1/4SW1/4, SE1/4.

T. 28 N., R. 57 E.,
Sec. 1, 11, and 12 PROT ALL;
2, NE1/4, NW1/4, SW1/4, N1/2SE1/4,
SW1/4SE1/4.
Lands unsurveyed, Protraction Diagram 131

T. 28 N., R. 57 E.,
Sec. 3, 4, 9 and 10.
Lands unsurveyed, Protraction Diagram 131

T. 28 N., R. 57 E.,
Sec. 5, (EXCLUDING HES228, HES229);
6, (EXCLUDING HES228, HES229,
HES230);
7, and 8.
Lands unsurveyed, Protraction Diagram 131

T. 28 N., R. 57 E.,
Sec. 13, 14, 23, and 24.
Lands unsurveyed, Protraction Diagram 131

T. 28 N., R. 57 E.,
Sec. 15, 22, 27, and 34.
Lands unsurveyed, Protraction Diagram 131

T. 28 N., R. 57 E.,
Sec. 16, and 17;
18, (EXCLUDING HES193).
Lands unsurveyed, Protraction Diagram 131

T. 28 N., R. 57 E.,
Sec. 19, 20 and 21.
Lands unsurveyed, Protraction Diagram 131

T. 28 N., R. 57 E.,
Sec. 25, 26, 35;
36, PROT ALL (EXCLUDING HES190);
Lands unsurveyed, Protraction Diagram 131

T. 28 N., R. 57 E.,
Sec. 31, 32, and 33.
Lands unsurveyed, Protraction Diagram 131

T. 29 N., R. 57 E.,
Sec. 3, NW1/4NW1/4, SW1/4NW1/4,
NW1/4SW1/4, SW1/4SW1/4;
Lands unsurveyed, Protraction Diagram 130
4, S1/2N1/2, S1/2;
5, S1/2NE1/4, SE1/4NW1/4, SW1/4, SE1/4;
8.

T. 29 N., R. 57 E.,
Sec. 10, NW1/4NW1/4, SW1/4NW1/4,
NW1/4SW1/4, SW1/4SW1/4;
Lands unsurveyed, Protraction Diagram 130
9 and 16;
15, NW1/4NW1/4, SW1/4NW1/4,
NW1/4SW1/4, SW1/4SW1/4;
Lands unsurveyed, Protraction Diagram 130
18, NE1/4, NE1/4NW1/4, SE1/4NW1/4,
NE1/4SW1/4, SE1/4SW1/4, SE1/4.

T. 29 N., R. 57 E.,
Sec. 19, NE1/4, NE1/4NW1/4, SE1/4NW1/4,
NE1/4SW1/4, SE1/4SW1/4, SE1/4;
20, 21, and 28.

T. 29 N., R. 57 E.,
Sec. 29 and 32;
30, NE1/4, NE1/4NW1/4, SE1/4NW1/4,
NE1/4SW1/4, SE1/4SW1/4, SE1/4;
31, NE1/4, NE1/4NW1/4, SE1/4NW1/4,
E1/2SE1/4.

T. 29 N., R. 57 E.,
Sec. 33 thru 34;

T. 29 N., R. 57 E.,
Sec. 35 thru 36;

T. 32 N., R. 57 E.,
Sec. 12, Lots 1 thru 7;
12, S1/2NE1/4, SE1/4NW1/4, NE1/4SW1/4,
SE1/4SW1/4, SE1/4;
13, Lots 1 thru 4;
13, S1/2NE1/4, S1/2NW1/4, S1/2.

T. 32 N., R. 57 E.,
Sec. 24 thru 27;

T. 32 N., R. 57 E.,
Sec. 34, N1/2, SE1/4;
35, N1/2, N1/2SE1/4, N1/2SW1/4, S1/2SW1/4;
36, N1/2NE1/4, N1/2NW1/4, SW1/4NW1/4.