



Protecting nature. Preserving life.™

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September 15, 2008

VIA FACSIMILE: (703) 440 – 1551

United States Department of the Interior  
Bureau of Land Management  
Eastern States  
7450 Boston Boulevard  
Springfield, VA. 22153

RE: Protest of Competitive Oil and Gas Lease Sale, Monongahela National Forest, West Virginia, Parcel Number ES-087-09/08 WVES 55509

Dear Bureau of Land Management:

Pursuant to 43 CFR 3120.1-3, The Nature Conservancy, a District of Columbia non-profit corporation with its principal place of business at 4245 North Fairfax Drive, Suite 100, Arlington, VA 22203 (The Conservancy), is protesting certain specific tracts and conditions of the proposed Oil and Gas Lease Sale on Parcel Number ES-087-09/08 WVES 55509, to be auctioned on September 25, 2008.

### **Interest of Protesting Party**

The Nature Conservancy is a leading conservation organization working around the world to protect ecologically important lands and waters for nature and people. Our mission is to preserve the plants, animals, and natural communities that represent the diversity of life on earth by protecting the lands and waters they need to survive. Through the support of more than one million members, donors, and volunteers, The Conservancy has protected more than 100 million acres of land and more than 5,000 river miles around the world.

In West Virginia, the Conservancy has worked with partners to protect over 100,000 acres of conservation land through fee acquisition, conservation easements, and management agreements. The Conservancy also manages 25 preserves in West Virginia totaling more than 9,000 acres. One of the preserves we own and manage in West Virginia, known as the Moshein tract, contains approximately 99 acres and is located within the proposed lease area (Tract A on attached map). In addition, the Conservancy has legal interest in two (2) adjacent properties.

## **Statement of Protest**

The Nature Conservancy is not protesting the leasing of oil and gas within Monongahela National Forest or on all tracts included within the proposed sale on Parcel Number ES-087-09/08 WVES 55509. As a landowner, we are protesting specific issues on U.S. Tracts 75 and 58a related to our interests. The specific issues are as follows:

1. According to our deed of the Moshein tract, The Conservancy owns 99.7 acres in fee, including mineral, oil and gas rights. That property is surrounded by U.S. Forest Service (FS) land, a portion of which is included in this proposed oil and gas lease sale. Information we received from the FS indicates they believe that tract to include 62.92 acres. Therefore, there is a discrepancy in the boundary of the Moshein tract and the proposed lease sale may impinge on the Conservancy's ownership and mineral or gas rights. Based on initial analysis, we suspect that the majority of the discrepancy extends into the narrow finger of U.S. Tract 75 discussed below in Item 2.
2. The majority of FS land around the Moshein tract (designated "A" on the attached map) is within a proposed wilderness area. The Conservancy acknowledges that the lease sale documents contain a stipulation that no surface occupancy will be permitted within the area under review for wilderness designation. However, there is a narrow strip of land owned by the FS between the Conservancy's Moshein tract and an adjacent private tract that is not within the proposed wilderness area, and accordingly such strip is not subject to the prohibition against surface occupancy. In addition, the Conservancy has a right of first refusal on an adjacent parcel (designated "B" on the attached map) and an interest in a third parcel in the immediate area. Based on an initial evaluation, this narrow finger of U.S. Tract 75 appears to include approximately 25 to 30 acres of the total 1,914 acre lease.

There is the potential for any lease holder to develop gas wells on the narrow finger of U.S. Tract 75 adjacent to the Conservancy's ownership. This would place the well in very close proximity to our ownership (or potentially on our ownership considering the boundary discrepancy discussed in Item 1 above), and between our current ownership and our other conservation interests in the area. Surface development on the tract would be inconsistent with the Conservancy's conservation interests in the area, and potentially could create a trespass onto the Conservancy's property. Our intent for this property includes spruce restoration, which is consistent with FS plans on the adjacent portions of U.S. Tract 75 as discussed below.

The narrow finger of U.S. Tract 75 has also been designated as Management Prescription 4.1 (Red Spruce Restoration) in the Monongahela National Forest Plan. However, a restoration plan has not been completed. Any surface occupancy within this designation could preclude options for spruce restoration and we recommend that exploration and surface occupancy not be conducted until the restoration plan is in place.

## **Resolution of Protest**

The following recommendations are included as measures to resolve any protest on the Conservancy's part. Note that we are not protesting the lease sale or all tracts within the

proposed lease. Our concerns are restricted to approximately 30 to 50 acres of the total 1,914 acre lease, and all potential conflicts are located within U.S. Tracts 75 and 58a.

1. To protect The Conservancy's ownership and rights on the Moshein tract, any boundary discrepancy between the Conservancy and the U.S. Forest Service should be resolved prior to the lease sale. Note that the Conservancy has a policy prohibiting the development of oil, gas, and hard minerals on its preserves.
2. To prevent any surface occupancy on the narrow finger of FS land adjacent to the Moshein tract that could potentially impact our ownership and our conservation interests in the area, the Conservancy recommends that BLM and the FS extend the no surface occupancy exclusion language to include all of U.S. Tract 75. This would also resolve any conflicts that might preclude meeting the objectives of Management Prescription 4.1 (Red Spruce Restoration) on this site.

We appreciate your attention to this matter and look forward to resolving these issues. If you have any questions or require any additional information, please contact me. Please direct all correspondence and inquiries to the West Virginia Field Office of The Nature Conservancy.

Sincerely,

Rodney Bartgis  
State Director