



February 1, 2008

By Fax

Kent Hoffman
Deputy State Director
Division of Lands and Minerals
Bureau of Land Management
P.O. Box 45155
Salt Lake City, UT 84145-0155
Fax: (801) 539-4237

Re: Protest for February, 2008 Utah BLM Oil and Gas Lease Sale

Specific protests to Utah parcel number: 859941; 859942; 859944; 859945;
859946; 859949; 859950; 859953; 859954; 859955; 859956; 859961;
859962

Dear Deputy Director Hoffman:

Trout Unlimited is the largest non-profit organization dedicated to preserving and restoring North America's trout and salmon fisheries and their watersheds. Trout Unlimited has over 150,000 members, including roughly 2,400 in Utah.

Under 43 CFR 3120.1-3, Trout Unlimited respectfully protests any of the above referenced leases that encompass parts of the Big Creek, Randolph Creek, Woodruff Creek, Birch Creek, and Otter Creek drainages. We are concerned that proposed leases along or around these watersheds will damage habitat and impair the coldwater fisheries there. The leasing of these parcels would convey a right to explore for and develop gas and/or oil reserves to the lessee that, when exercised, could impact the water quality necessary for the survival of coldwater fisheries.

I.) General Protest Issues

A.) Changed Circumstances and a Lack of Public Comment Opportunity

The underlying Resource Management Plans covering the management areas where these leases are located provide a general analysis and leasing decision, however, the

identification of specific lease parcels represents changed circumstances that need to be analyzed in a supplement to that leasing decision. Because specific lease parcels have never been analyzed in a NEPA document, this needs to occur before they can be offered for sale.

Up until the sale notice, the public was unaware of the location of specific lease parcels to be sold. Because the public has been unaware as to where specific lease parcels would be sold, identification of specific lease parcels represent changed circumstances upon which the public has not been able to comment or review site-specific NEPA analysis. The Federal Lands Policy Management Act (FLPMA) requires that BLM “shall allow an opportunity for public involvement and . . . shall establish procedures . . . to give . . . the public adequate notice and an opportunity to comment on and participate in the formulation of . . . programs relating to the management of the public lands.” 43 U.S.C. § 1712(f). While the public had the opportunity to comment on the underlying land use plan, that right has not been made available regarding the specific leases parcels. The BLM has provided no opportunity for public comment on the protested lease parcels prior to this protest, which is essentially an after-the-fact opportunity for involvement, which fails to meet the requirements of FLPMA. Until this oversight is corrected, the protested lease parcels should not be offered for sale.

B.) Failure to Properly Map Lease Parcels

Given the documents provided in the Competitive Lease Sale Notice, it is difficult at best to for the public to understand where the leases are located. As a result, it is extremely difficult for the public to offer meaningful public comment and analysis. In the maps made available that the sale notice, the relation to existing lease parcels is not shown. We believe that this constitutes a violation of the Federal Onshore Oil and Gas Leasing reform Act (FOOGLRA) that requires: “*Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area.*” 30 U.S.C. § 226(f) (emphasis added.).

Certainly in the information age when oil and gas lease sale notices are made available online, appropriate lease sale maps are "practical" need to be included as well. These maps are required to not only show lease parcels to be sold, but there relation to *existing parcels*. In addition, it would be extremely helpful if the maps provided showed drainages, roads, and other topographical features so that the public can accurately determine what lands and resources they own are up for lease.

C.) Lack of Cumulative Impacts Analysis

Rivers throughout Utah, including those in the watersheds in Rich County where the protested parcels are located, have experienced deleterious impacts to the aquatic environment in recent drought years due to low stream flows and increased water

temperatures. The BLM needs to conduct an assessment of vulnerable aquatic and wildlife species, and natural systems that will be adversely impacted by global climate change. The BLM should manage vulnerable systems and their tributaries to prevent them from experiencing regime shifts brought on by the impacts of climate change and remove other stressors from those systems by thoroughly analyzing cumulative impacts that leasing, and in turn development, authorize.

It is important to note that Bonneville cutthroat trout evolved to be migratory in the Bear River (called a fluvial life history strategy). This allowed them to move between main stem and tributary habitats to maximize their fitness given seasonal conditions in each (i.e. tributaries are good for spawning and escaping warm water in the summer, main stems are good for eating and escaping cold water during the winter). Elsewhere in the Bear River watershed, they can still move between these habitats, which buffers them from the effects of habitat degradation caused by the surface disturbances related to oil and gas development, increasing water temperatures brought on by global climate change, and other factors. In Rich County it appears that most, if not all, of the historic migration corridors between those critical tributaries and the main stems have been blocked, severely limiting the ability for these trout to maximize their fluvial life history.

The cumulative impacts of global climate change, the compromised life history for native, fluvial Bonneville cutthroat trout, and the impacts of oil and gas development need to be evaluated and considered in a Supplemental Environmental Analysis for the NEPA document governing the issuance of the leases before they can be sold, and proper stipulations in place and/or a decision not to lease for those parcels in which the life history strategy of native Bonneville cutthroat trout has been compromised. A failure to do so is an incomplete analysis of the impacts that oil and gas leasing could have on Bonneville cutthroat trout in the Bear River watershed.

Specific Lease Protests

Populations of Bonneville cutthroat trout are located in the Big Creek and Woodruff Creek watersheds, including Randolph Creek (a tributary to Big Creek) and Birch Creek (a tributary to Woodruff Creek.) The following leases are located in these drainages 859941; 859942; 859944; 859945; 859946; 859949; 859950; 859953; 859954; 859955; 859956. Trout Unlimited protests the inclusion of the parcels in the Utah BLM February, 2008 lease sale.

These populations of native trout are either conservation population or management populations and both population statuses are important for continued conservation of Bonneville Cutthroat trout. If these parcels are offered for sale, stipulations should be applied that are consistent with Objective II, A of the *Range-Wide Conservation Agreement and Strategy for Bonneville Cutthroat Trout, Dec. 2000* (page 54): “Eliminate or significantly reduce threats that cause any present or potential destruction, modification, or curtailment of habitat or range.” Specifically, this Objective recommends that signatories of the Conservation Agreement, of which the Utah BLM is

one, should maintain or restore water quality to a degree that provides for stable and productive riparian and aquatic ecosystems.

With this in mind, TU does not feel that the existing stipulation (UT-S-04: NSO within 600 feet of live water) goes far enough for the protection of cutthroat trout and the clean, healthy watersheds that they depend upon. If these leases are to be offered, then an NSO stipulation within ½ mile of surface water is needed for adequate resource protection. Indeed elsewhere, Forest Service and BLM have mandated more restrictive NSO stipulations for the protection of native trout, ranging from ½ mile NSO (BLM's Dillon Field Office) to NSO for entire watersheds (Helena National Forest).

Lease Parcels 859961 and 859962 are in the Otter Creek watershed. This stream historically supported a robust population of Bonneville cutthroat trout. Spot surveys conducted by Utah Division of Wildlife resources in 2003 documented the presence of sculpins, brown trout, and brook trout, but it is likely that the creek still supports a few BCT and it could be the location of a Bonneville cutthroat trout restoration project in the future. Gas and oil activities on these parcels could impact the existing coldwater fishery and compromise restoration efforts. Because of the potential for this stream to contribute to the continued restoration of Bonneville cutthroat trout and the existing coldwater fishery, TU protests the inclusion of these parcels. If parcels 859961 and 859962 are offered for sale, no surface occupancy or disturbance stipulation should be applied within 1/2 mile of live water.

It is also important to note that lease parcel 859961 does not contain an NSO stipulation within any distance of live water, yet it appears that the eastern border of the lease is delineated by Otter Creek.

Conclusion

Trout Unlimited supports responsible energy development. However, we recognize that, in keeping with the multiple use of our public lands, and a balanced approach to resource use, there are some places that should not be subject to energy development. We strongly urge the BLM to reconsider selling the above referenced lease parcels that abut or have the potential to negatively impact coldwater fisheries, especially those that are important for continued Bonneville cutthroat trout restoration.

Thank you for your consideration of our concerns. .

Sincerely,

Corey Fisher
Energy Field Coordinator
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