



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Utah State Office
P.O. Box 45155
Salt Lake City, UT 84145-0155
<http://www.blm.gov/ut/st/en.html>



IN REPLY REFER TO:
3100 / (UT-922)

SEP 30 2009

CERTIFIED MAIL – 7008 1140 0002 1094 1938
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DECISION

| | | |
|--------------------------------|---|------------------------------------|
| Center for Native Ecosystems | : | Protest to the Inclusion of |
| Megan Mueller, Staff Biologist | : | Parcels in the June 23, 2009 |
| 1536 Wynkoop, Suite 303 | : | Competitive Oil and Gas Lease Sale |
| Denver, Colorado 80202 | : | |

Protest Denied

On April 13, 2009, the Bureau of Land Management (BLM) provided notice (Notice of Competitive Lease Sale) that 67 parcels of land would be offered in a competitive oil and gas lease sale scheduled for June 23, 2009. The notice also indicated that the protest period for the lease sale would end on May 13, 2009. In a letter received at the BLM on May 14, 2009, the Center for Native Ecosystems (CNE) protested the inclusion of 65 parcels in the sale. The protested parcels are on public lands administered by the BLM's Fillmore, Price, Monticello and Vernal Field Offices, as follows:

Fillmore Field Office

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|-----------------------|-----------------------|
| UTU87303 (UT1108-001) | UTU87308 (UT1108-017) |
| UTU87304 (UT1108-007) | UTU87309 (UT1108-026) |
| UTU87305 (UT1108-009) | UTU87310 (UT1108-028) |
| UTU87306 (UT1108-010) | UTU87311 (UT1108-033) |
| UTU87307 (UT1108-011) | UTU87312 (UT1108-034) |

Price Field Office

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|-----------------------|-----------------------|
| UTU87313 (UT0509-025) | UTU87327 (UT0509-039) |
| UTU87314 (UT0509-026) | UTU87328 (UT0509-040) |
| UTU87315 (UT0509-027) | UTU87329 (UT0509-041) |
| UTU87316 (UT0509-028) | UTU87330 (UT0509-042) |
| UTU87317 (UT0509-029) | UTU87331 (UT0509-043) |

UTU87318 (UT0509-030)
UTU87319 (UT0509-031)
UTU87320 (UT0509-032)
UTU87321 (UT0509-033)
UTU87322 (UT0509-034)
UTU87323 (UT0509-035)
UTU87324 (UT0509-036)
UTU87325 (UT0509-037)
UTU87326 (UT0509-038)

UTU87332 (UT0509-044)
UTU87333 (UT0509-045)
UTU87334 (UT0509-046)
UTU87335 (UT0509-047)
UTU87336 (UT0509-048)
UTU87337 (UT0509-049)
UTU87338 (UT0509-050)
UTU87339 (UT0509-052)
UTU87340 (UT0509-053)

Monticello Field Office

UTU87345 (UT0509-063)
UTU87346 (UT0509-064)
UTU87347 (UT0509-065)
UTU87348 (UT0509-066)
UTU87349 (UT0509-067)
UTU87350 (UT0509-068)
UTU87351 (UT0509-069)
UTU87352 (UT0509-070)
UTU87353 (UT0509-071)
UTU87354 (UT0509-072)
UTU87355 (UT0509-073)

UTU87356 (UT0509-074)
UTU87357 (UT0509-075)
UTU87360 (UT0509-079)
UTU87361 (UT0509-080)
UTU87362 (UT0509-081)
UTU87363 (UT0509-082)
UTU87364 (UT0509-083)
UTU87365 (UT0509-084)
UTU87366 (UT0509-085)
UTU87367 (UT0509-086)

Vernal Field Office

UTU87341 (UT0509-054)
UTU87342 (UT0509-057)
UTU87343 (UT0509-058)

UTU87344 (UT0509-060)
UTU87358 (UT0509-077)
UTU87359 (UT0509-078)

By errata notice dated June 16, 2009, the BLM deferred offering the following 23 parcels covered by the CNE protest: UT0509-052, UT0509-053, UT0509-063, UT0509-064, UT0509-065, UT0509-066, UT0509-067, UT0509-068, UT0509-069, UT0509-070, UT0509-071, UT0509-072, UT0509-073, UT0509-074, UT0509-075, UT0509-079, UT0509-080, UT0509-081, UT0509-082, UT0509-083, UT0509-084, UT0509-085 and UT0509-086. Consequently, the protest as to these parcels is denied as moot.

This decision responds to the CNE protest as it pertains to the remaining 42 protested parcels.

CNE makes only general allegations throughout its protest. After the list of parcels that are protested, there are general allegations that "in some cases, the species *no longer occurs* within the protested parcel, but the parcel *may* contain habitat which *may* be important to the recovery of the species," which underscores that CNE's protest is not specific concerning any particular parcel. CNE also makes general allegations regarding land use plan revisions, nominated Areas of Critical Environmental Concern, purported "new information" related to the white-tailed prairie dog, coordination with the U. S. Fish and Wildlife Service, and notices and stipulations. Other than a table attached as Exhibit 1, which is referred to as Appendix 1 throughout the protest, the protest makes no attempt to explain how the general allegations may apply to any of the protested parcels¹.

¹ The general allegations in CNE's May 14, 2009 protest letter appear to be largely boilerplate used in other protests CNE has made to the BLM.

Apparently, CNE intends its general allegations to apply only to the extent specified in the list of parcels attached as Exhibit 1. However, to the extent that CNE intends to raise the general allegations as to all of the relevant protested parcels, CNE fails to provide any explanation of how the allegations relate to the parcels. Consequently, CNE's allegations are conclusory and unsupported by specific facts, and its protest is dismissed as to the general allegations². The BLM is under no obligation, as a matter of law or policy, to sort through a protestant's laundry-list of alleged errors and attempt to discern which alleged errors the protestant intended to invoke for a particular parcel. Such unduly burdensome and inefficient process would unreasonably divert the time and resources that the BLM otherwise needs to manage the public lands as mandated by Congress.

I note that CNE has often and repeatedly taken advantage of the BLM's protest procedure as well as the administrative appeal process before the Interior Board of Land Appeals. The protest letter recites that CNE "has a well-established history of participation in Bureau of Land Management ("BLM") planning and management activities, including participation in Utah BLM oil and gas leasing decisions and the planning process for the various Utah Field Offices" and that its "mission" includes participating in "administrative processes" and "legal actions." (Page 5). Consequently, CNE should be well aware of its responsibilities as a protestant.

For the BLM to have a reasonable basis to consider future CNE protests, CNE must identify for each parcel it protests the specific ground for protest and explain how it applies to the parcel. Any allegations of error based on fact must be supported by competent evidence, and a protest may not merely incorporate by reference arguments or factual information provided in a previous protest. Further, CNE must consider whether any lease stipulations or notices that apply to a particular parcel may be relevant to its allegations, and explain how such stipulations or notices do not obviate the allegations. Failure to comply with any of the foregoing may result in the summary dismissal of the protest.

In conclusion, for the above-stated reasons, the CNE Protest is denied as to the remaining parcels. The BLM has received offers on all of these parcels and will issue leases subsequent to issuing this decision and any other necessary protest decision.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 C.F.R. Part 4 and the enclosed Form 1842-1. If an appeal is taken, the notice of appeal must be filed in this office (at the address shown on the enclosed Form) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay pursuant to 43 C.F.R. Part 4, Subpart B § 4.21, during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay must show sufficient justification based on the standards listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

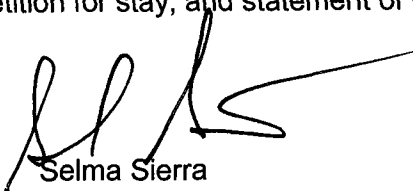
Standards for Obtaining a Stay

² It is well established that the BLM properly dismisses a protest where the protestant makes only conclusory or vague allegations or the protestant's allegations are unsupported by facts in the record or competent evidence. See, e.g., Southern Utah Wilderness Alliance, 122 IBLA 17, 20-21 (1992); John W. Childress, 76 IBLA 42, 43 (1983); Patricia C. Alker, 70 IBLA 211, 212 (1983); Geosearch, Inc., 48 IBLA 76 (1980).

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall be evaluated based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

Copies of the notice of appeal, petition for stay, and statement of reasons also must be submitted to each party named in this decision and to the Office of the Regional Solicitor, Intermountain Region, 125 South State Street, Suite 6201, Salt Lake City, Utah 84138, at the same time the original documents are filed in this office. You will find attached a list of those parties who purchased the subject parcels at the June 2009 lease sale and who therefore must be served with a copy of any notice of appeal, petition for stay, and statement of reasons.



Selma Sierra
State Director

Enclosures

1. Form 1842-1 (2pp)
2. List of Purchasers

cc: James Karkut, Office of the Solicitor, Intermountain Region,
125 South State Street, Suite 6201, Salt Lake City, UT 84138
Bro Energy, LLC, 4824 SO. Highland Circle, #200, Salt Lake City, UT 84117
Castle Valley Holdings, LLC, 3300 S. Parker Road, Aurora, CO 80014
Coastal Plains Energy Inc., 420 Throckmorton, #630, Fort Worth, TX 76102-3723
Craig Settle, 5897 S. Fulton Way, Greenwood Village, CO 80111-3719
Energy Reserve Group, 150 N. Main St., Suite 233, Salt Lake City, UT 84103
John P. Hollmann, 22619 Brook Drive, Hot Springs, SD 57747
Pioneer Oil & Gas, 1206 W. South Jordan Pkwy, # B, South Jordan, UT 84095-4551
Questar Exploration & Production, 1050 17th St., #500, Denver, CO 80265
Sonja V. McCormick, 1481 S. Preston St., Salt Lake City, UT 84108
Stonegate Resources LLC, 4994 N E Meadows Drive, Park City, UT 84098
Tidewater Oil & Gas Co. LLC, 110 16th St., Suite 405, Denver, CO 80202-5206
Wes State Lands, 301 Thelma Dr., #412, Casper, WY 82609-2325

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

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| 1. NOTICE OF APPEAL..... | A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413). |
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| 2. WHERE TO FILE NOTICE OF APPEAL..... | Bureau of Land Management, Utah State Office, P. O. Box 45155, Salt Lake City, Utah 84145-0151 or Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101 and Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111 |
| WITH COPY TO SOLICITOR... | |
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| 3. STATEMENT OF REASONS | Within 30 days after filing the Notice of Appeal, File a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413). |
| WITH COPY TO SOLICITOR..... | and Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111 |
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| 4. ADVERSE PARTIES..... | Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. |
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| 5. PROOF OF SERVICE..... | Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)). |
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| 6. REQUEST FOR STAY..... | Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay. |
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Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2005)

List of Purchasers for CNE

Bro Energy, LLC
4824 SO. Highland Circle, #200
Salt Lake City, UT 84117

Castle Valley Holdings, LLC
3300 S. Parker Road
Aurora, CO 80014

Coastal Plains Energy Inc.
420 Throckmorton, #630
Fort Worth, TX 76102-3723

Craig Settle
5897 S Fulton Way
Greenwood Village, CO 80111-3719

Energy Reserve Group
150 N Main St., Suite 233
Salt Lake City, UT 84103

John P. Hollmann
22619 Brook Drive
Hot Springs, SD 57747

Pioneer Oil & Gas
1206 W South Jordan Pkwy, # B
South Jordan, UT 84095-4551

Questar Exploration & Production
1050 17th St., #500
Denver, CO 80265

Sonja V. McCormick
1481 S Preston St
Salt Lake City, UT 84108

Stonegate Resources LLC
4994 N E Meadows Drive
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