United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Colorado State Office
2850 Youngfield Street
Lakewood, Colorado 80215-7210
www.co.blm.gov

In Reply Refer To:
3120 (CO-922)

NOV 1 2 2015

CERTIFIED MAIL – Return Receipt Requested

Decision

Mr. Jeremy Nichols
Climate and Energy Program Director
WildEarth Guardians
1536 Wynkoop, Suite 310
Denver, Colorado 80202

November 12, 2015, Competitive Oil & Gas Lease Sale
Protest of One Hundred Twenty-One Parcels Denied

All Protested Parcels Will be Offered for Sale

The protest period for the November 12, 2015, Competitive Oil and Gas Lease Sale began August 14, 2015, and closed at 4:00 p.m. MT on September 14, 2015. On September 14, 2015, this office received a protest from WildEarth Guardians (WEG) regarding all one hundred twenty-one (121) parcels to be offered in the November 2015 lease sale.

The Bureau of Land Management (BLM) received nominations for the November 2015 lease sale until November 12, 2014. The parcels considered for the November 2015 lease sale include federal fluid mineral estate located in the Arapaho-Roosevelt National Forest's Pawnee National Grassland (PNG) and the BLM Colorado's Royal Gorge Field Office (RGFO). The United States Forest Service (USFS) manages the surface estate of the PNG parcels. The BLM administers the mineral estate of all of the parcels. After preliminary adjudication of the nominated parcels by the BLM Colorado State Office, the parcels were reviewed by the RGFO, including an interdisciplinary review, field visits to nominated parcels (where appropriate), review of conformance with the Resource Management Plan (RMP) decisions for the planning area and preparation of a Documentation of National Environmental Policy Act (NEPA) Adequacy (DNA) for the PNG parcels and an Environmental Assessment (EA) for the RGFO parcels.

The Lease Sale Notice for the November 2015 lease sale provided notice that one hundred twenty-one (121) parcels containing 89,534.300 acres of federal lands in the State of Colorado would be offered for oil and gas leasing. The Lease Sale Notice and the review versions of the NEPA documents were released on August 14, 2015, initiating a 30-day protest period.

The BLM has reviewed your protest arguments in their entirety; the substantive arguments are summarized or quoted in bold, with the BLM responses following.

1. The BLM Failed to Comply with NEPA.

The RGFO prepared a DNA, DOI-BLM-CO-F020-2015-0061-DNA, to confirm the sufficiency of the analysis of the impacts of leasing the parcels in the PNG and to formally adopt the USFS Record of Decision and the Final Environmental Impact Statement (FEIS) for the PNG Oil and Gas Leasing Analysis (PNG FEIS), February 2015. The BLM participated in the preparation of the PNG FEIS as a cooperating agency in accordance with Title 40 C.F.R. Part 1501.6. The PNG FEIS addresses oil and gas leasing on certain lands in the PNG that are legally open to leasing. The DNA confirms that the PNG FEIS adequately analyzed the proposed action of leasing the PNG parcels. The signed DNA adopts the PNG FEIS, as provided in 40 C.F.R. 1506.3(a):

An agency may adopt a federal draft or final EIS or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under [the NEPA implementing] regulations.

An EA, DOI-BLM-CO-F020-2015-0021-EA, was prepared by the RGFO to evaluate the impacts of leasing the parcels in the RGFO planning area in the November 2015 lease sale and to determine whether the proposed action would have any additional significant impacts not previously analyzed in an Environmental Impact Statement (EIS). The RGFO carefully reviewed each nominated parcel to determine if it can be successfully managed under existing land use planning decisions.

a. The BLM Failed to Analyze and Assess the Cumulative Impacts of Horizontal Drilling and Fracking.

The cumulative impacts of horizontal drilling and hydraulic fracturing was addressed on pages 3-4 of Appendix F of the BLM's November 2015 Competitive Oil and Gas Leasing EA. Hydraulic fracturing is discussed in Oil and Gas Development section (3.1) of the PNG FEIS and potential impacts to water resources resulting from hydraulic fracturing were also addressed in the Hydrology and Soils Resources section (3.7.2).

The response in Appendix F of the EA states:
"While the applicable RMP/EISs and the Oil and Gas EIS do not specifically analyze hydraulic fracturing, they likewise do not preclude such technologies being analyzed in leasing and APD EAs."

The Hydrology/Water Quality section of the EA discusses potential impacts to natural resources and regulations associated with hydraulic fracturing, which are designed and implemented to protect natural resources and the human environment.

At the leasing stage, it is not known how many potential wells may be hydraulically fractured, and what the water usage requirements may be for those wells. Water usage for hydraulic fracturing of oil and gas wells is considered at the APD stage.

Resources such as water are protected during hydraulic fracturing activities per 43 C.F.R. 3162.3-1, in which an APD for a well is approved only after appropriate site-specific environmental and technical reviews by the authorized officer (AO) of the BLM. A thorough review of submitted materials for each individual well by the BLM resource specialists is completed. The geologist performs independent review utilizing Colorado Division of Water Resources data, Colorado Geological Survey maps and publications and Colorado Oil & Gas Conservation Commission records to generate a geological report. The geologist identifies usable ground water and mineral-bearing zones that require protection. The petroleum engineer reviews the casing and cementing portions of the drilling plan to ensure the protection of those zones identified by the geologic report. Conditions of Approval to protect usable water zones are attached to the APD as necessary.

Usable ground water resources are protected during drilling in accordance with the BLM Onshore Oil and Gas Order No. 2, Drilling Operations. Onshore Order No. 2 requires that all formations containing usable quality water (≤10,000 mg/L total dissolved solids) be isolated and protected utilizing proper casing and cementing. "If encountered while drilling, usable quality water requires protection by bringing the cement at least +/- 200' above the usable water quality zone." The BLM geologists and petroleum engineers review the drilling and completion data to insure that oil/gas zones and usable water zones are protected by wellbore casing and cementing. The BLM natural resource specialists and petroleum engineering technicians (PETs) conduct inspections to ensure that the operator's plans have successfully avoided environmental impacts. PETs inspect well sites during drilling, completion and production for technical and safety compliance.

In accordance with 43 C.F.R. 3162.4-2, Samples, Tests and Surveys, "during the completion of a well, the operator shall, when required by the authorized officer (AO), conduct, test, run logs and make other surveys reasonably necessary to determine the presence, quantity, and quality of oil, gas, other minerals, or the presence or quality of water." These tests and logs are reviewed and correlated with geologic and hydrologic data. In order to protect fresh water and other minerals, the BLM may require the operator to perform "tests and surveys of the effectiveness of such measures (to isolate and protect usable water) . . . using such procedures and practices approved or prescribed by the AO." The BLM AO may require an operator to conduct cement bond log surveys to verify cement adequacy.

The State of Colorado also regulates hydraulic fracturing under its regulations: http://cogcc.state.co.us/reg.html#/rules.

Cumulative effects of oil and gas development are analyzed in the EA and PNG FEIS, and include the potential effects all known oil and gas development on both private and federal minerals as well as any other known actions that might cause an impact to the human or natural environment.

The EA provides a comprehensive cumulative summary air quality analysis of projected oil and gas development based on the 2012 RGFO RFD as analyzed under the Colorado Air Resources Management Modeling study (CARMMS, BLM 2014), which was also used in the PNG FEIS analysis. The BLM incorporated the relevant field office information and the EA contains the URL for the full report so that interested members of the public can view the CARMMS report in its entirety online. As stated in the EA (pg. 24), the CARMMS study analyzed three development scenarios (low, medium, and high) to try and understand how projections of potential federal and non-federal development could impact air quality throughout Colorado in the future. For the RGFO, specifically field office Area 1, development is tracking along the high development curve (EA, page 25), and thus the CARMMS impacts were disclosed for that scenario. We note however, that this is not the case for the remainder of the Colorado field offices or the other areas analyzed within the RGFO, for which actual development is tracking lower than that predicted by RFD (EA, page 25). The high development track in RGFO Area 1 is solely attributable to non-federal development. The federal development rate since 2011 is much closer to what was analyzed under the low CARMMS scenario.

This is important because the protester suggests that the high development in the RGFO could contribute up to 0.9 ppb to annual 4th high maximums, which would be significant if applying the EPA Interstate Transport Rule threshold referenced by the protester. This threshold of 1% of the value of the NAAQS (76 Fed. Reg. 48,208, 48,236 (Aug. 11, 2011)) applies to an upwind state's contributions to a monitored non-attainment area exceedance in a downwind state, and is unrelated to "significance" in the NEPA context. Moreover, EA figure 3.2, shows that the 0.9 ppb contribution is projected to occur in the Oklahoma panhandle, in an area that is classified as attaining the ozone standard and where no ozone monitor is known to exist, and thus the Interstate Transport Rule would not be applicable. Further, draft EA Figure 3.2 also shows that there are no contributions greater than 0.0 ppb in the Colorado Northern Front Range 8-hr ozone non-attainment area counties from the high CARMMS federal development scenario. Table 3.11 provides the cumulative source apportionment contributions to the non-attainment area, and states on the same page, the RGFO contributions to monitored exceedances in the Denver Front Range area are exceptionally small, well below 1%. In light of the fact that the federal development in the field office is tracking low, in the revised EA we have replaced the draft EA figure 3.2 with the same source apportionment area, but for the low CARMMS scenario (see EA Figure 3.2). The total contribution to ozone is 0.1 ppb, well outside the 8-hour ozone non-attainment area as can be seen from the plot. We have also updated Table 3.11 with the low federal development data to match.

The BLM has not claimed that it will analyze cumulative impacts more robustly in the future; the BLM states that we will undertake additional analysis for any proposed future development as required by NEPA. This analysis may include all of the activities listed in the statewide lease notice the protester references (CO-56), and will at a minimum require the development of a project level emissions inventory. The BLM COSO provides for these emissions inventories via

Instructional Memorandum 2015-009. The leasing of any parcel in Colorado does not prevent the BLM from applying COAs for any future development when analysis results in the need for such COAs.

For these reasons, we deny this portion of WEG's protest.

b. The BLM Failed to Analyze and Assess the Greenhouse Gas and Climate Impacts of the Proposed Leasing (GHG).

The BLM and Forest Service provided a detailed climate change impacts assessment as established and accepted by the most credible science available (see EA page 22 and page 34 and PNG FEIS pg.185-190). The BLM provided GHG estimates on both a per-well and cumulative basis based on the best available information we have (tables 3.5 and 3.7). The BLM explained that any future development on the nominated parcels fits within the expected range of GHG emissions described in the EA. Although the protest claims these impacts to be significant based on the associated uncertainty, the uncertainty described in the EA relates to the level of any potential future development, not the analysis of potential climate changes derived from the best available science. The climate impacts described in the EA are expected to occur regardless of whether the nominated parcels are ever leased and/or developed, because the climate changes described in the EA are based on the analysis of total global GHG sources and sinks as projected far into the future. Any potential emissions associated with the future development of the nominated leases alone would not cause significant climate change impacts (see EA page 34, EPA study). Similarly, the USFS stated in the PNG FEIS that the estimated quantity of greenhouse gases that could be emitted from development on the Pawnee NG is quite small relative to total United States and global greenhouse gas emissions, making it impossible to determine quantitatively the degree of change that might be attributable to these emissions. However, it is anticipated that the relative contribution of these emissions will be quite small (PNG FEIS pg. 189). As stated in the EA and PNG FEIS, before future development can occur, any proposed project will receive additional analysis (at the very least an emissions inventory). BLM will not speculate as to the level of development that may occur on any nominated lease parcels, but BLM disclosed in the EA that potential future development will incrementally add to the global GHG burden (EA page 22).

Social Cost of Carbon was addressed on pages 1-3 of Appendix F of the lease EA, and page 316-318 (Comment #10) of the PNG FEIS, to which the DNA tiers.

Furthermore, the BLM's November 2015 Competitive Oil and Gas Lease Sale EA and the PNG FEIS (which the November 2015 Competitive Oil and Gas Lease Sale, PNG Parcels DNA tiers to) provide green-house gas (GHG) emissions for project-area counties, and briefly discuss Climate Change in general. The EA and PNG FEIS also disclose GHG emissions for "typical" oil and gas wells.

At this time specific information on the location and methods for oil and gas development operations that may be proposed on the subject lease parcels is not known. Additionally, the development potential of the oil and gas resource in the area of the leases has considerable uncertainty and the number and location of any future drilling sites, if any, is currently unknown.

It is also unknown whether the fluid mineral resources specific to these parcels, if present, are gas, oil or a combination thereof. Since these types of data are unavailable, it would be too speculative, and therefore not useful, to quantitatively analyze GHG emissions at this time. Since information regarding the location, extent, and operating procedures and technologies that might be utilized for oil and/or gas development operations on the subject parcels is not currently known, it is currently not feasible to speculate about the net impacts to climate that might result from leasing and any future oil and gas development operations on the proposed lease parcels. As such, the BLM has qualitatively addressed the potential for GHG emissions and climate impacts from oil and gas operations in the area where the proposed parcels are located in the EA and FEIS.

The BLM acknowledges that climate change is happening and that it is affected by human activity. In these analyses, the BLM presents a qualitative discussion of the environmental effects of climate change and their socioeconomic consequences. The BLM has considered and disclosed the projected effects of climate change on the resources within the project areas area. The EA and PNG FEIS also provided for an accounting of the direct GHG emissions for the estimated cumulative development (EA table 3.7, PNG FEIS Table 48). The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions. West Antelope II, 738 F.3d at 309; WildEarth Guardians v. BLM, Civ. Case No. 1:11-cv-1481 (RJL) (D.D.C. filed Mar. 31, 2014).

The BLM finds that including monetary estimates of the Social Cost of Carbon (SCC) in its NEPA analysis for this proposed action, which is not a rulemaking, would not be useful. There is no court case or existing guidance requiring the inclusion of SCC in the NEPA context. A federal Interagency Working Group on the Social Cost of Carbon (IWG), convened by the Office of Management and Budget, developed an SCC protocol for use in the context of federal agency rulemaking. The IWG issued estimates of the SCC, which reflect the monetary cost incurred by the emission of one additional metric ton of carbon dioxide (CO2). Estimating SCC is challenging because it is intended to model effects on the welfare of future generations at a global scale caused by additional carbon emissions occurring in the present.

For this project, there are several challenges involved in attempting to apply SCC to the analysis:

- Given the global nature of climate change, estimating SCC of an individual project requires assessing the impact of the project on the global market for the commodity in question.
- Monetizing only certain benefits or costs can lead to an unbalanced assessment. A regional economic impact analysis is often used to estimate impacts on economic activity, expressed as projected changes in employment, personal income, or economic output. Such estimates are not benefits or costs, and are not part of a benefit cost analysis.
- The SCC estimates developed by the IWG can only be applied to CO2 emissions, not other GHG emissions such as methane. Again, monetizing only certain effects can lead to an unbalanced assessment.

For these reasons, we deny this portion of WEG's protest.

c. The BLM Failed to Analyze and Assess Other Air Quality Impacts.

Please see the responses to items a and b, above. In addition, in the cumulative impacts section of the EA we disclosed additional air quality analysis, including the 1-hour NO_2 and 24-hour $PM_{2.5}$ impacts assessment, from field wide development as analyzed under the CARMMS high development scenario. This is also disclosed in the PNG FEIS. EA figure 3.3 shows that the maximum 8th high 1 hour NO_2 concentration from the RGFO results in not more than 14.4 $\mu g/m^3$, while the standard is 189 $\mu g/m^3$. EA figure 3.4 shows that the maximum 8th high 24-hour $PM_{2.5}$ concentration (which also includes secondary PM) is not more than 0.7 $\mu g/m^3$, while the standard is 35 $\mu g/m^3$. Thus, the predicted concentrations are well below the NAAQS on an annualized basis (both NO_2 and $PM_{2.5}$ require a three year average). As discussed above, in light of the fact that the federal development in the field office is tracking low, in the revised EA we have replaced the draft EA figures 3.3 and 3.4 with the same source apportionment area, but for the low CARMMS scenario. As explained in the EA, the total contribution to NO_2 and $PM_{2.5}$ from the low CARMMS scenario is 2.1 $\mu g/m^3$ and 0.2 $\mu g/m^3$, respectively, and is well below the level of the NAAQS.

For these reasons, we deny this portion of WEG's protest.

2. The BLM Failed to Comply With General Conformity Requirements Under the Clean Air Act.

The protester raised this issue in comments on the draft EA, and the BLM responded to those comments in Attachment F to the revised EA and in revisions to the EA (page 22 and 23). This issue was raised during the public comment period for the PNG FEIS (page. 321). Specifically, the BLM explained that a conformity determination is not required for its leasing decision, because leasing is exempted from the conformity requirements under the Clean Air Act for two reasons: it only results in a transfer of interest, and more importantly any potential resulting emissions are not reasonably foreseeable with sufficient precision at the leasing stage to support a general conformity analysis. See 40 C.F.R. § 93.153(c)(2)(xiv), (3). In our response to the protester's comment, we explained the temporal and development scenario uncertainties that make an estimated project emissions inventory developed at the leasing stage too imprecise to be useful for the purposes of conformity analysis (i.e., comparing emissions associated with a federal action to the specific thresholds in 40 C.F.R. § 93.153(b)(1)), or a full conformity determination. The BLM further noted that certain, but not all, activities associated with oil and gas development would be exempt from conformity analysis due to applicable state permitting requirements. 40 C.F.R. § 93.153(d)(1).

Moreover, the regulation itself contains examples (not intended to be a complete list) of federal actions where the emissions are not "reasonably foreseeable," including "Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level." 40 C.F.R. § 93.153(c)(3)(i). Onshore oil and gas lease sales are virtually identical to this example, as they are "made on a broad scale" and are followed by project-level exploration and development plans that would entail further analysis.

When promulgating the rule, EPA explained, "the exploration and development actions at the project level would be subject to conformity review prior to any action that would actually result in emissions. In such cases, the EPA believes that a conformity review is not required prior to the project level analysis." See 58 Fed. Reg. 63214, 63226 (Nov. 30, 1993).

We understand that WEG wrote a letter to EPA suggesting that BLM was not performing its non-discretionary duties as required under 40 C.F.R. 93.153(b) (the "General Conformity Rule"). BLM has discussed its approach with EPA Region 8 and the Office of Air Quality Planning and Standards (OAQPS) General Conformity Rule experts. Those discussions did not provide BLM with any information to change its assessment that the emissions that may indirectly result from leasing parcels in the November 2015 sale are not sufficiently foreseeable to support a general conformity analysis. Whereas NEPA analysis entails an assessment of the "significance" of foreseeable impacts, conformity analysis requires more precise information to allow an accurate comparison of project-level emission rates with the specific thresholds in the general conformity regulations, in order to determine whether the Federal action triggers other regulatory procedures under the Clean Air Act. See;, e.g., 40 C.F.R. §§ 93.158, 93.159. The statutes therefore require different kinds of information.

Further, we disagree that conformity analysis must be included in a RMP-level or programmatic analysis. The protester also proposes that BLM is required to ensure that "ongoing implementation" of the applicable RMP (adopted in 1986 and amended in 1991) conforms with Colorado's State Implementation Plan for the Denver Metro/North Front Range Ozone Nonattainment Area. Notwithstanding that the governing RMP predates the establishment of the nonattainment area (designated in 2004, effective in 2007), the RMP is a planning document, and does not authorize specific activity—nor is the RMP itself an "activity," as the protester suggests. Further, the 2012 RGFO RFD that was used to support CARMMS and NAA well counts (which are not emissions, nor are they delineated as federal and non-federal) is not an activity, decision, or action requiring the BLM to provide for a conformity analysis or determination. Even where an RMP identifies public lands as "open" for potential leasing and development of oil and gas resources, leasing of specific parcels for oil and gas development requires an implementation decision by the BLM. Further, ground-disturbing activities for a proposed project must be specifically authorized in an approved application for permit to drill or other approval decision. Because of these intervening implementation decisions, an RMP cannot be said to authorize activities resulting in direct or indirect emissions. Nor are the potential emissions that may result from implementation decisions that may someday follow a planning decision be quantified with sufficient precision to be considered "reasonably foreseeable" for purposes of a conformity analysis for the RMP as a whole. Moreover, in the PNG FEIS the Forest Service discussed the subject of General Conformity at length and excluded it from the analysis as described on pages 183-184, and in the responses to comments concerning this issue (pgs. 321-323).

For these reasons, we deny this portion of WEG's protest.

3. The BLM has Failed to Comply with Section 7 of the Endangered Species Act.

The act of leasing mineral rights for oil and gas exploration and/or development will have no impact on threatened or endangered species. The leasing decision provides the right to explore and produce, but future production activities are subject to separate authorizations, and leasing does not assure that development will occur. However, if exploration and/or development does occur, stipulation CO-34, to alert lessee of potential habitat for threatened, endangered, candidate, or other special status plants or animals, has been applied to all parcels available for this lease sale. If development is proposed for leased parcels, review of site specific proposals will be completed and, if appropriate, protective requirements will be applied. The United States Fish and Wildlife Service (FWS) will be notified if proposals may affect threatened or endangered species and/or their habitat, at which time a determination of need for Section 7 consultation, as required by the Endangered Species Act, will be made.

This review will take place at the Application for Permit to Drill (APD) stage rather than the leasing stage. At the lease stage it is not known which parcels may be developed, how many wells will be drilled, whether or not the development will take place in the South Platte watershed (some of the proposed parcels are not in the South Platte River Basin), how much water will be needed (this is heavily dependent on the type of drilling technology that will be used), how much water may be recycled, and whether or not the proposed water source used by the operator is deemed a tributary source to the South Platte River by the State of Colorado.

At the APD stage, if the operator proposes to use water that could be tributary to the South Platte River, the operator will have the opportunity to enroll in the South Platte Water Related Activities Program (SPWRAP). In January 2015 the BLM Colorado completed a Programmatic Biological Assessment (PBA) which described the potential effects of the fluid minerals program in the South Platte River Basin in Colorado on federally listed species and designated critical habitat associated with the Platte River in Nebraska.

In response to BLM's PBA, the FWS issued a Programmatic Biological Opinion (PBO) (06E-24000-2014-F-0671) on February 2, 2015, which concurred with BLM's determination that water depletions are "Likely to Adversely Affect" the whooping crane, interior least tern, northern Great Plains population of the piping plover, pallid sturgeon (collectively referred to as the target species), and designated critical habitat of the whooping crane. However, the FWS also determined that the BLM water depletions from the Platte River Basin are not likely to jeopardize the continued existence of the target species and that BLM water depletions are not likely to destroy or adversely modify designated critical habitat for the whooping crane.

The Platte River Recovery Implementation Program (PRRIP), established in 2006, is implementing actions designed to assist in the conservation and recovery of the target species and their associated habitats along the central and lower Platte River in Nebraska through a basin-wide cooperative approach agreed to by the States of Colorado, Nebraska, and Wyoming and the United States Department of the Interior. The PRRIP addresses the adverse impacts of existing and certain new water related activities on the Platte target species and associated habitats, and provides ESA compliance for effects to the target species and whooping crane critical habitat from such activities including avoidance of any prohibited take of such species.

The PRRIP serves as the reasonable and prudent alternative to offset the effects of water related activities that the FWS found were likely to cause jeopardy to one or more of the target species or to adversely modify critical habitat.

The PBO addresses water depletions associated with fluid minerals development on BLM lands, including water used for well drilling, hydrostatic testing of pipelines, dust abatement on roads, and seismic activity. The PBO includes reasonable and prudent alternatives developed by the FWS which allows the BLM to authorize oil and gas wells that result in water depletion while avoiding the likelihood of jeopardy to the endangered species and avoiding destruction or adverse modification of their critical habitat. The PBO confirms ESA compliance for water-related activities of oil and gas producers that elect to rely on the PRRIP through maintaining membership in good standing in the SPWRAP.

SPWRAP is formally charged with certifying to the FWS that water users in Colorado are meeting the requirements to support reliance on the PRRIP for ESA compliance purposes. Among other things, SPWRAP assists the State of Colorado in complying with its financial and water management requirements under the PRRIP. This includes implementation of groundwater recharge operations at times when South Platte River flows are in excess of the needs of endangered species and allowing the return of water to the river when flows are less than needed by endangered species.

At the APD stage, if the operator proposes to use water that may be tributary to the South Platte River, and does not elect to join SPWRAP, separate consultation with the FWS may be required before the APD can be approved.

For these reasons, we deny this portion of WEG's protest.

DECISION

The decision to offer the one hundred twenty-one (121) parcels was made in accordance with BLM policy and regulations. For the reasons described above, your protest of the sale of these parcels is denied.

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

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 Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision, to the IBLA, and to the appropriate Office of the Solicitor (see 43

C.F.R. 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 otherwise provided by law or other pertinent regulation, 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 protestor'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.

If you have any questions regarding this response, contact Barbara Sterling, Natural Resource Specialist at (303) 239-3642.

Lonny R Bagley

Lonny R. Bagley
Deputy State Director
Division of Energy, Lands and Minerals

Enclosure

cc: Field Manager, RGFO

Form 1842-1
(September 2006)

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

1. NOTICE OF APPEAL..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to 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).

2. WHERE TO FILE

NOTICE OF APPEAL..... Bureau of Land Management, Colorado State Office
Division of Energy, Lands, and Minerals (CO-920)
2850 Youngfield Street, Lakewood, Colorado 80215

WITH COPY TO SOLICITOR... U.S. Department of the Interior, Regional Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151, Lakewood, Colorado 80215

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..... U.S. Department of the Interior, Regional Solicitor, Rocky Mountain Region
755 Parfet Street, Suite 151, Lakewood, Colorado 80215

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).

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)).

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 *Notice of Appeal* (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 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* 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 otherwise 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.

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.

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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.