



## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

Colorado State Office

2850 Youngfield Street

Lakewood, Colorado 80215-7210

[www.co.blm.gov](http://www.co.blm.gov)



In Reply Refer To:  
3120 (CO-922) KZ

### Decision

National Wildlife Federation  
Attn: Michael A. Saul, Associate Counsel  
2260 Baseline Rd., Ste. 100  
Boulder, CO 80302

Natural Resources Clinic  
University of Colorado Law School  
Wolf Law Building, UCB 404  
Boulder, CO 80309-0404

May 10, 2012, Competitive Oil & Gas Lease Sale;  
Protests of COC75297-COC75300, COC75302-COC75308,  
COC75310, COC75311, COC75313, COC75316-COC75322,  
COC75324-COC75330 are Dismissed.

This office received protests regarding the above named parcels to be offered in the May 10, 2012, Competitive Oil & Gas Lease Sale. The following Parcels, COC75309, COC75312, COC75314, and COC75315 were deferred and are not subject to protest. Parcels COC75310, COC75311, COC75313, COC75316, COC75317, COC75319, COC75322 and COC75329 are partially deferred and the parts that are partially deferred are not subject to protest.

### Responses from Little Snake Field Office (LSFO)

Protest: COC75312, COC75313, COC75318, COC75322. Despite mounting evidence that sage-grouse populations continue to decline, four parcels (totaling 1500 ac) within the Little Snake RMP are offered for sale that contain medium and high priority sage-grouse habitat. Each parcel is subject to several use stipulations, discussed below. These stipulations, which are laid out in the Little Snake RMP, fail to protect the sage-grouse:

LS-102 Timing Limitation to protect nesting greater sage-grouse. (This allows Controlled Surface Use only between March 1- June 30 within a 4 mile radius of the perimeter of a lek). Surface disturbing activities only need to avoid nesting and brood rearing habitat within that radius.

LS-107 Medium Priority Habitat controlled Surface Use. A 5 percent surface disturbance limitation applies to the parcel. Disturbance is to be determined by the operator, and only applies to activity conducted by the operator, not surrounding areas or existing disturbance. The operator must also submit a Plan of Development for approval prior to commencing disturbance. New disturbance is permitted after the operator reclaims the previously disturbed.

LS-108 High Priority Habitat Controlled Surface Use. A 1 percent surface disturbance limitation applies to the parcel. Disturbance is to be determined by the operator, and only applies to activity conducted by the operator, not surrounding areas or existing disturbance. The operator must also submit a Plan of Development for approval prior to commencing disturbance. New disturbance is permitted after the operator reclaims the previously disturbed.

Response: The LSFO Resource Management Plan (RMP) (2011) identified low, medium and high priority sagebrush habitats. High priority sagebrush habitat consists primarily of greater sage-grouse core areas and medium priority habitat is a combination of sage-grouse habitat and big game habitat. Some areas of medium priority habitat provide important winter habitat for big game species and are outside of occupied sage-grouse habitat Final Environmental Impact Statement (FEIS 2-17). If a parcel contains a medium priority habitat controlled surface use stipulation, it does not necessarily mean that the parcel provides habitat for sage-grouse.

Between the comment period and the protest period for this lease sale, Colorado Parks and Wildlife (CPW) identified greater sage-grouse preliminary general and preliminary priority habitat. This mapped habitat identified by CPW March 15, 2012, is the most recent information about sage-grouse habitat. Areas outside of preliminary general and preliminary priority habitat are not considered occupied at this time. COC75312 and a portion of COC75322 are now located in sage-grouse preliminary priority habitat and are being deferred from this lease sale per WO IM 2012-043.

The portion of COC75322 that is not being deferred is not located within sage-grouse preliminary priority or preliminary general habitat and is outside of the range of occupied habitat. The majority of COC75313 is located outside of preliminary priority and preliminary general habitat with approximately 40 acres located in preliminary general habitat. COC75318 is located entirely in preliminary general habitat.

The alternatives analyzed in the LSFO RMP (2011) adequately address potential impacts to sage-grouse in preliminary general habitat. During the RMP amendment process, BLM developed mitigation measures, including no surface occupancy, controlled surface use (with 5% disturbance thresholds) and timing limitations to address oil and gas development in sage-grouse habitat. These stipulations have been attached to leases where appropriate and in our judgment are adequate to mitigate impacts to sage-grouse in preliminary general habitat. BLM will further analyze site specific environmental impacts upon receipt of applications for oil and gas operations permits.

Protest: Leasing the listed parcels will violate The National Environmental Policy Act (NEPA). The BLM has dual objectives to meet through its management of the land under its control:

access to minerals and multiple, sustained use. Under the Mineral Leasing Act, the BLM has discretion to withdraw parcels from disposition. NEPA imposes procedural considerations that the BLM must satisfy prior to agency action. The BLM has not met the necessary requirements for the above listed parcels.

The LSFO RMP relies on timing and disturbance limitations that are not likely to protect the long-term survival of sage-grouse populations. It also does not adequately consider the cumulative impacts of the decision to lease these parcels. Additionally, the BLM has not considered new information regarding the status of sage-grouse prior to offering these parcels for lease sale.

The above listed parcels contain important wildlife habitat. Because leasing these parcels has the potential to limit future opportunities to conserve sage-grouse populations, these parcels should be deferred from the May 2012 lease sale.

Response: The impacts from leasing these parcels were adequately assessed in the LSFO RMP (2011). Nothing in the Council on Environmental Quality (CEQ) or NEPA regulations requires postponing or denying a proposed action that is covered by the Environmental Impact Statement (EIS) for the existing approved land use plan (see 40 CFR 1506.1-2). All Field Offices are expected to follow their respective approved land use plans in offering new lease parcels for sale. LSFO prepared an appropriate level of NEPA documentation, assuring that any lands offered for lease sale conform to the existing Land Use Plan and that any changes in circumstances have been considered.

LSFO is aware of new information from CPW regarding the status of sage-grouse, and due to this new information, all parcels in preliminary priority habitat are being deferred from leasing at this time.

Protest: The BLM has discretion to withdraw these parcels from leasing. The BLM must address the impacts of drilling before conducting lease sales, because a lease sale is an irrevocable commitment of resources: at the time of sale, legal rights are transferred to the purchaser pursuant to 43 CFR 3101.1-2.

Response: The 1920 Mineral Leasing Act, as amended, authorizes the Secretary of the Interior to lease oil and gas resources on public domain and acquired land. An RMP identifies which lands are potentially available for leasing. Before leasing, the BLM must decide which specific parcels to lease. In accordance with BLM policy, the BLM prepares NEPA documents prior to conducting lease sales. After leasing, additional approval decisions will be required before on-the-ground operations begin. For each decision, conformance with the RMP and compliance with NEPA is verified.

The lands to be offered for lease are open to leasing under the current LSFO RMP (2011). The LSFO RMP EIS considered the impacts from oil and gas development. The RMP EIS analyzed an alternative (Alternative D, RMP p. 2-63) that would have closed more acreage to leasing. Alternative D was not selected. The BLM eliminated from consideration in the LSFO RMP EIS a planning area-wide No Leasing Alternative, because eliminating leasing across the planning

area was not considered to be in the public's interest. A No Leasing alternative also was considered and analyzed for portions of the resource management area in the 1991 Colorado Oil and Gas Leasing and Development FEIS. A No Leasing alternative was considered where BLM determined that even the most restrictive mitigation available (No Surface Occupancy) would not adequately mitigate conflicts or environmental consequences—which could indicate that leasing is not in the public's interest.

Protest: The LSFO RMP contains insufficient protections for grouse and fails to adequately consider the cumulative impacts of this leasing decision.

Response: In order not to preclude any new mitigation measures or stipulations that may be developed during the Northwest (NW) Colorado District Greater Sage-grouse EIS, all parcels located in preliminary priority habitat are being deferred from leasing at this time per WO IM 2012-043.

The alternatives analyzed in the LSFO RMP EIS adequately address potential impacts of oil and gas development, including cumulative impacts. During the RMP amendment process, BLM developed mitigation measures, including no surface occupancy, controlled surface use and timing limitations to address oil and gas development in sage-grouse habitat. These stipulations have been attached to leases where appropriate and in our judgment would be adequate to mitigate impacts to sage-grouse in preliminary general habitat. BLM will further analyze site-specific environmental impacts upon receipt of applications for oil and gas operations permits.

Protest: The BLM has failed to account for new information regarding sage-grouse.

Response: Based on new information summarized in “A Report on National Greater Sage-Grouse Conservation Measures, and the mapped habitat identified by CPW March 15, 2012, Sage-grouse National Technical Team, 2011” the LSFO is deferring all parcels located in preliminary priority habitat. However, the LSFO RMP contains disturbance thresholds that will limit oil and gas disturbance and would be adequate to mitigate impacts to sage-grouse preliminary general habitat.

#### Responses from White River Field Office (WRFO)

Protest: Parcels COC75307, COC75310, COC75316, COC75329, and COC75327. These parcels fall within mapped sage-grouse habitat and should be deferred at least until the White River Office completes its new RMP incorporating the latest known data about sage-grouse and considering the heightened concern about keeping the sage-grouse off the endangered species list.

Response: Parcel COC75307 contains roughly 50 acres of sagebrush habitat that is largely disconnected from minimally suitable habitat to the north. The nearest lek (inactive since the 1980's) is nearly 15 miles away. Comments received from CPW during the comment period indicated no concerns with the leasing of this parcel. Stipulation CO-34, which is attached to this parcel, would allow the BLM to apply Conditions of Approval (COA) if deemed necessary as a result of changed circumstances in the future.

A portion of Parcel COC75310 (approximately 35 acres) overlaps the extreme periphery of preliminary general sage-grouse habitat, as recently mapped by CPW. With the exception of approximately 2 acres of sagebrush habitat, this parcel is comprised of mountain shrub communities which limit the potential for sage-grouse occupation. There is no documented sage-grouse use. The nearest known lek (no records of recent occupation) is over 5.5 miles from parcel. Comments received from CPW during the comment period indicated no concerns with the leasing of this parcel.

Parcel COC75316 is largely comprised of an aspen/mountain shrub matrix with small (3 - 10 acres in size), discontinuous sagebrush parks. This habitat has extremely limited potential for sage-grouse occupation. The nearest known lek (no evidence of recent occupation) is located approximately 4.75 miles from parcel. Comments received from CPW during the comment period indicated no concerns with the leasing of this parcel.

Parcels COC75327 and COC75329 do not occur in preliminary priority or preliminary general sage-grouse habitat as most recently mapped by CPW.

Protest: Parcels COC75307, COC75298, COC75299, COC75302, COC75303, COC75304, COC75306, COC75325, COC75308, COC75317, COC75321, COC75320, COC75328, COC75324, COC75326, COC75309, COC75314, COC75315, COC75310, COC75316, COC75317, COC75311, COC75319 all contain stipulation CO-34 alerting the lessee that the parcel contains possible habitat for threatened, endangered, or special status species and should be deferred until more analysis is complete and it is clear what resources may be at issue, and how those resources are to be managed.

Response: Currently, there are no threatened or endangered animal species that are known to inhabit or derive important use from these lease parcels. Stipulation CO-34 is applied to all lease parcels to alert lessees that should a threatened or endangered species be identified on a leased parcel in the future, Section 7 consultation with the USFWS will be required and appropriate stipulations will be applied. Further, CO-34 alerts lessees that BLM may impose appropriate mitigation requirements on exploration and development activities in order to protect special-status species, listed species, and species proposed for listing.

Protest: WRFO Parcels COC75307, COC75297, COC75300, COC75303, COC75306, COC75325, COC75308, COC75317, COC75321, COC75320, COC75328, COC75324, COC75326, COC75305, COC75330, COC75327 contain timing restrictions for big game summer or winter range and do not go far enough to protect habitat and prevent negative impacts on big game species because they allow continued degradation of habitat and construction of structures that will result in avoidance behaviors.

Response: Timing stipulations TL-07, 08, and 09 are consistent with the WRFO RMP, and are currently applied to all big game summer ranges within the WRFO as the as the 10% threshold has been exceeded. These timing stipulations are recommended by CPW (see CDOW's Actions to Minimize Adverse Impacts to Wildlife Resources; October 2008). Although seasonal timing limitations may not prevent all adverse changes in animal distribution, nutrition, or energy budgets, they remain an effective device for isolating the highest intensity and ostensibly most

disruptive stressors to periods when migratory animals are absent from those ranges. Sawyer et al., (2009a) suggests that timing limitations applied to winter drilling in open sagebrush habitats can reduce the area subject to indirect influences (avoidance and disuse of available resources) by 70-90 percent depending on the frequency of activity during the post-drilling/completion phase.

Protest: WRFO Parcels COC75309, COC75314, COC75315, COC75310, COC75316, COC75317, COC75311, COC75319 surround the Jensen State Wildlife Area (SWA) and fails to discuss the impact of development and fragmentation of most of the land surrounding this important habitat, and the timing limitations imposed are inadequate to protect game populations.

Response: Timing stipulations included in the RMP to protect big game were reviewed and approved by CPW during the NEPA process. These timing stipulations are recommended by CPW (see CDOW's Actions to Minimize Adverse Impacts to Wildlife Resources; October 2008). In the case of big game summer ranges, CPW's timing stipulations are less restrictive than those required in the WRFO RMP. The northeast portion of the Jensen State Wildlife Area (SWA) has in the past been subject to relatively dense energy development with no apparent long-term negative effects to big game populations. Potential habitat fragmentation surrounding Jensen SWA will be analyzed in site-specific analysis considering direct, indirect, and cumulative impacts associated with habitat fragmentation taking into account past, present, and reasonably foreseeable development based on the amount and type of disturbance involved.

Based on documentation of a new Columbian sharp-tailed grouse lek by CPW (BLM notified 4/3/12), WRFO recommends the following parcels or portions thereof for deferral: Parcel 6053; Sec. 18, NWSE, SWSE, Lots 8 & 9; Parcel 6169: Sec 30, Lots 2, 3 & 5; Parcel 6170: Sec 34, S2, SENE, SWNE, SENW, Lot 4, Sec 35, S2, S2N2, Sec 36, S2, SENW, SWNW; Parcel 6210: Sec 33, Lots 13, 16, 24, 26; Parcel 6057: Sec 3, Lot 3, 4; S2NW, SW, Sec 4, Lot 24, SESE; Parcel 6058: Sec 9, NW1/4, Lot 5, NWSE, NESW, NWSW, SESW, Sec 10, NENW, Lots 1, 4, 5, 16. Much of this area encompasses parcels surrounding Jensen SWA.

Protest: The White River RMP is out-of-date, and also does not provide sufficient protections for sage-grouse or big game. Additionally, the BLM has not considered new information regarding the status of sage-grouse prior to offering these parcels for lease sale.

Response: See responses to protests 1-4.

Protest: The White River EA does not adequately address sage-grouse impacts. Parcel COC75329 should be withdrawn from sale because the BLM did not fully consider the impact that developing these parcel would have on sage-grouse.

Response: Not all communities encompassed within mapped sage-grouse ranges are considered suitable for occupation by grouse. Large inclusions of non-habitat are common. Furthermore, as stated in WFRO response no. 1, based on CPW's most recent information, this parcel is not in preliminary priority or preliminary general sage-grouse habitat.

Protest: The status of the sage-grouse has drastically changed since the time the White River RMP was drafted and fails to adequately incorporate the BLM's strict guidelines outlined in the interim guidelines. These parcels should be deferred until this analysis is complete.

Response: See responses to previous comments. Additionally, the protest failed to describe in detail how the BLM failed to incorporate the BLM's interim guidelines in Instruction Memorandum (IM) 2012-043. The BLM has incorporated the guidelines outlined in the interim guidance for sage-grouse by considering the direct, indirect, and cumulative adverse effects on Greater Sage Grouse and its habitat.

The decision to offer the above named parcels was made in accordance with Bureau of Land Management policy and regulations. Your protest of the sale of these parcels is dismissed.

Within 30 days of receipt of this decision, you have the right to appeal to the Board of Land Appeals, in accordance with the regulations at 43 CFR Part 4. If an appeal is taken, the procedures outlined in the enclosed Form CSO 1842-1, Information on Taking Appeals to the Board of Land Appeals, must be strictly followed. The form also includes instructions for filing a petition for stay on any decision appealed from. The appellant has the burden of showing that the Decision appealed from is in error.

If you have any questions regarding this response, contact Karen Zurek, Chief, Fluid Minerals Adjudication at (303) 239-3795.

Sincerely,

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

Enclosure

CSO Form 1842-1

cc: High Lonesome Ranch, P.O. Box 88, DeBeque, CO81630  
Rocky Mountain Wild, 1536 Wynkoop St., Ste. 303, Denver, CO 80302  
Sierra Club, 1536 Wynkoop St., Ste. 303, Denver, CO 80302  
San Luis Valley Ecosystem Council, 1536 Wynkoop St., Ste. 303, Denver, CO 80302  
Trout Unlimited, 250 No. 1<sup>st</sup> St., Lander, WY 82520  
Wilderness Society, 1660 Wynkoop St., Ste. 850, Denver, CO 80202  
Manager, Wendy Reynolds, Little Snake Field Office  
Manager, Kent Walter, White River Field Office



## United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Colorado State Office

2850 Youngfield Street

Lakewood, Colorado 80215-7210

[www.co.blm.gov](http://www.co.blm.gov)



In Reply Refer To:  
3120 (CO-922) KZ

### Decision

The High Lonesome Ranch  
Attn: Scott Stewart  
P.O. Box 88  
Debeque, CO 81630

### May 10, 2012, Competitive Oil & Gas Lease Sale; Protest of COC75305 is Dismissed

This office received a protest regarding COC75305 (Parcel 6186) offered in the May 10, 2012, Competitive Oil & Gas Lease Sale.

### Responses from White River Field Office (WRFO)

Protest: The EA does not include any other documentation of how it made the determination of whether the parcels met or did not meet the criteria for IM-WO-2010-039. Therefore, we can only assume that this information was not part of the decision making for COC75305 (6186) and BLM is out of compliance with direction from IM-WO-2010-039.

Response: The Instruction Memorandum (IM) number referenced by High Lonesome Ranch (HLR) is not related to oil and gas leasing. The Bureau of Land Management (BLM) contends that it has complied with BLM policy, including IM-WO-2010-017, by, among other things, conducting interdisciplinary review of the proposed lease parcels, preparing the Environmental Assessment (EA), and affording the public an opportunity to comment on the EA.

Protest: This was the first time High Lonesome Ranch (HLR) expressed any concern on COC75305 (6186) and therefore it is premature on BLM's part to make the assumption that they have completed all necessary analysis.

Response: The EA that reviewed parcels proposed for leasing in the May 2011, oil and gas lease sale was DOI-BLM-CO-110-2010-267-EA. It was posted in the public room of the WRFO and on the National Environmental Policy Act (NEPA) register on the WRFO website for a 30 day public review and comment period which occurred from November 12, 2010, through December 14, 2010. A press release describing the May 2011, lease sale and the public comment period ("BLM Seeks Public Comment to Lease for Oil and Gas in Meeker") was released on November 18, 2010. The EA that reviewed parcels proposed for leasing in the



August 2011, oil and gas lease sale was DOI-BLM-110-2011-0056-EA. It was posted in the public room of the WRFO and on the NEPA register on the WRFO website for a 30 day public review and comment period which occurred from February 22, 2011, through March 21, 2011. A press release describing the August 2011 lease sale and the public comment period (“Sale Assessment up for comment”) was released on February 24, 2011.

Analysis of the parcel overlaying the HLR property was completed in DOI-BLM-110-2011-0056-EA for the August 2011 lease sale. After the Finding of No Significant Impact/Decision Record (FONSI/DR) was signed for that lease sale, the parcel was deferred to allow the BLM to meet with the proponents of a Master Leasing Plan (MLP). After meeting with the proponents and addressing their concerns, the decision was to offer the parcel in the May 2012, lease sale. No further analysis was conducted on this parcel in DOI-BLM-CO-110-2011-0178-EA. HLR provided comments during the comment period for DOI-BLM-CO-110-2011-0178-EA; however, the comments had to do with the parcel analyzed in DOI-BLM-110-2011-0056-EA and were outside the scope of DOI-BLM-CO-110-2011-0178-EA. We did address substantive comments from HLR in the DOI-BLM-CO-110-2011-0178-EA; however, none of the issues raised warranted further analysis. BLM’s responses appear in Attachment G of that EA. The analysis in the EA therefore is sufficient.

Protest: We believe there is new information that can be obtained via on-the-ground assessments and that we submitted valid and new concerns during the comment period and by BLM’s own admission, no ‘further discussion or analysis’ was completed on COC75305.

Response: HLR fails to identify or describe in detail what specific new information was provided to BLM. BLM cannot speculate as to HLR’s concerns. Many of the comments provided by HLR during the comment period for DOI-BLM-CO-110-2011-0178-EA were non-substantive and did not provide justification or supporting information. DOI-BLM-CO-110-2011-0056-EA did analyze the effects of leasing this parcel on recreation and wildlife. While a site visit was not conducted, site specific impacts would be analyzed upon receipt of an Application of Permit to Drill (APD) or development proposal. While the HLR protest mentioned socio-economic impacts, the protest did not describe in detail what specific socio-economic effects leasing the parcel would have on HLR’s property. There was no mention of socio-economic issues in the letter HLR submitted during the comment period.

Protest: We contend that HLR provides both solitude and primitive recreation on the HLR privately owned portions of COC75305 and, therefore, analysis and impact assessment is warranted. HLR has a very active recreation program on the HLR lands and this action could significantly impact those programs and values. Furthermore, if BLM thought it warranted to remove the parcel from the August 2011 lease sale for further analysis, it must still have those same concerns since no evidence was provided that their concerns were alleviated – in fact no additional analysis was conducted. Based on these concerns, leasing the private portion of COC75305 violates NEPA requirements and is not warranted at this time.

Response: The portion of the parcel on BLM lands was deferred from the August 2011, sale, (DOI-BLM-CO-110-2011-0056-EA), and it was deferred due to concerns regarding primitive recreation. This portion remains deferred. The other portion of this parcel was deferred after the

FONSI and DR were signed to allow the BLM time to meet with the proponents of a MLP. The BLM met with the proponents on two occasions. The parcel as described in the Sale Notice for the May 2012, Oil and Gas Lease Sale is the same portion that was deferred to allow the BLM time to meet with the MLP proponents. Because the meetings have occurred, deferral is no longer appropriate.

Protest: There has been no analysis of the impacts to the characteristics of COC75305, the HLR own portion, and it is unknown to BLM what HLR plans for the management of the lands contained in COC75305 would be managed for. In fact HLR has considered doing an assessment of its private lands, which include COC75305, to see if there are characteristics and qualities to manage as backcountry and/or primitive lands with High recreation value.

Response: In regard to Lands with Wilderness Characteristics, WO-IM-2011-34 applies only to BLM managed surface lands. DOI-BLM-CO-110-2011-0056-EA considered the foreseeable impacts of leasing to the surface estate.

Protest: We believe there is significant information that could have been obtained and useful from HLR, but BLM never approached HLR and requested information.

Response: HLR had the opportunity to comment on the EA; the BLM announced the availability of the EA for public review and comment through a press release on December 5, 2011, and the EA was posted on the BLM's website and in the WFRO public room. Additionally, a courtesy notice was mailed to surface land owners on December 13, 2011. HLR did not identify or provide specific details on what significant information the BLM did not have.

Protest: Leasing and subsequent development would cause significant economic impacts and also change the way the HLR would manage the property. BLM stated that there were no Socio/Economic impacts by the proposed action and did not complete any analysis of the potential impacts to HLR. We believe this is in error, and request BLM complete such analysis before making a decision to lease the private HLR lands contained within COC75305.

Response: While the HLR protest did mention socio-economic impacts, the protest did not describe in detail what specific socio-economic effects leasing the parcel would have on their property. There was no mention of socio-economic issues within the letter from HLR received during the comment period. HLR does refer to exploring avenues for surface use of the parcel area, including developing cabins that they could sell. However, they did not provide specific details on how leasing this parcel would affect their ability to do so.

Protest: HLR believes that there were viable alternatives not explored in the EA and BLM could have separated the private lands in COC75305 from the public lands and allowing leasing to move forward with adequate analysis of each section and just as the HLR has to respect....BLM has ignored this obligation by failing to reach out to HLR in a timely fashion to provide information that would have been useful in the EA BLM completed for this lease sale and other viable alternatives could have been developed from this knowledge.

Response: HLR did not provide specific detail on an alternative that could have been considered. Parcel COC75305 (6186) is entirely private surface land. Also see response to bullet 2 regarding comment periods and lack of response from HLR.

Protest: We believe leasing COC75305 (6186) would preclude viable alternatives and management actions that the Resource Management Plan amendment would address. We also believe that this approach violates the spirit of IM-WO-2010-117 and IM-WO-2007-117 (Split Estate) which directs BLM to address leasing and coordination on split-estate lands during the RMP process. By relying on the existing RMP and not addressing the issue raised by HLR in the soon-to-be-released RMP oil and gas amendment, BLM is violating the Federal Land Policy and Management Act of 1976.

Response: HLR did not provide specific detail as to how leasing the parcel would preclude management actions to be considered as part of the Resource Management Plan (RMP) amendment process or violate Federal Land Management Policy Act of 1976 (FLMPA) or BLM policies. Leasing this parcel is consistent with the 1997 White River DR and Approved RMP, and would not preclude choice of alternatives in the oil and gas RMP amendment.

Protest: By leasing COC75305 (6186) at this time, BLM would be creating a coordination problem with other HLR energy activities and creating unneeded conflict.

Response: HLR mentioned in their comment letter that HLR has embarked on a private mineral extraction program that would be impacted (including access and “other factors”) and mentioned in their protest that leasing this parcel would create a coordination problem. However, they fail to describe in specific detail what coordination problems would be created by leasing this parcel or how their private mineral extraction program would be impacted. Colorado Oil & Gas Conservation Commission (COGCC) and BLM regulations provide for spacing and other measures to facilitate the orderly development of minerals.

The decision to offer the above named parcel for leasing was made in accordance with Bureau of Land Management policy and regulations. Your protest of the sale of this parcel is dismissed.

Within 30 days of receipt of this decision, you have the right to appeal to the Board of Land Appeals, in accordance with the regulations at 43 CFR Part 4. If an appeal is taken, the procedures outlined in the enclosed Form CSO 1842-1, Information on Taking Appeals to the Board of Land Appeals, must be strictly followed. The form also includes instructions for filing a petition for stay on any decision appealed from. The appellant has the burden of showing that the Decision appealed from is in error.

If you have any questions regarding this response, contact Karen Zurek, Chief, Fluid Minerals Adjudication at (303) 239-3795.

Sincerely,

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

Enclosure  
CSO Form 1842-1

cc: National Wildlife Federation, 2260 Baseline Rd., Ste. 100, Boulder, CO 80302  
Manager, Kent Walter, White River Field Office



**United States Department of the Interior**  
**BUREAU OF LAND MANAGEMENT**  
**Colorado State Office**  
**2850 Youngfield Street**  
**Lakewood, Colorado 80215-7076**



In Reply Refer To:  
3120 (CO-922) (KZ)

Decision

The Wilderness Society  
1660 Wynkoop St., Ste. 850  
Denver, CO 80202

May 10, 2012, Competitive Oil & Gas Lease Sale;  
Protest of COC75300 is Dismissed

This office received a protest regarding COC75328, COC75329, COC75330, and COC75300 to be offered in the May 10, 2012, Competitive Oil & Gas Lease Sale. In a letter to the Bureau of Land Management (BLM) dated April 10, 2012, The Wilderness Society withdrew parcels COC75328, COC75329 and COC75330 from their protest. Therefore, these parcels are not subject to protest.

Response from White River Field Office (WRFO)

Protest: The sale notice lacks adequate protections for the fish and wildlife values of parcel COC75300.

Response: With the application of Controlled Surface Use (CSU)-02 and CSU-06 from the White River Resource Area, Resource Management Plan/Record of Decision (WRRR RMP/ROD), the BLM can require the proponent to demonstrate that the proposed surface disturbing activities will not influence the character of the existing system including features such as gradient, sediment load, vegetative communities, and water quality. Furthermore, this entire parcel is comprised of slopes ranging from 25 percent to greater than 50 percent (see CSU-01 WRRR ROD). In the event that this parcel is developed, pad placement likely would be on the ridge top above the creek, which is separated from the creek by one mile of ephemeral drainage. It should be noted that sampling conducted by the BLM's Northwest (NW) District fisheries biologist indicate the Lake Creek population is not a genetically pure strain of Colorado River cutthroat trout (CRCT) and therefore is not considered a conservation population. The comment did not indicate what stronger protection would be appropriate. The protest does not provide information demonstrating that current CSU's are inadequate to protect a system from surface disturbing activities located over 0.25 miles away. Because sufficient mitigation measures are available to the BLM, deferral of the parcel is not necessary.

The Wilderness Society withdrew its protest of parcels COC75328, COC75329, COC75330 on April 10, 2012. Since these parcels were withdrawn from their protest, WRFO did not comment on the protest of these parcels.

The decision to offer the above named parcel was made in accordance with Bureau of Land Management policy and regulations. Your protest of the sale of this parcel is dismissed.

Within 30 days of receipt of this decision, you have the right to appeal to the Board of Land Appeals, in accordance with the regulations at 43 CFR Part 4. If an appeal is taken, the procedures outlined in the enclosed Form CSO 1842-1, Information on Taking Appeals to the Board of Land Appeals, must be strictly followed. The form also includes instructions for filing a petition for stay on any decision appealed from. The appellant has the burden of showing that the Decision appealed from is in error.

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Division of Energy, Lands and Minerals

Enclosure  
CSO Form 1842-1

cc: National Wildlife Federation, 2260 Baseline Rd., Ste. 100, Boulder, CO 80302  
Trout Unlimited, 250 No. 1<sup>st</sup> St., Lander, WY 82520

Manager, Kent Walter, White River Field Office



**United States Department of the Interior**  
**BUREAU OF LAND MANAGEMENT**  
**Colorado State Office**  
**2850 Youngfield Street**  
**Lakewood, Colorado 80215-7210**  
**[www.co.blm.gov](http://www.co.blm.gov)**



In Reply Refer To:  
3120 (CO-922) (KZ)

Decision

Trout Unlimited  
c/o Cathy Purves  
250 North 1<sup>st</sup> St.  
Lander, WY 82520

May 10, 2012, Competitive Oil & Gas Lease Sale;  
Protests of COC75300 and COC75311 are Dismissed

This office received protests regarding parcels to be offered in the May 10, 2012, Competitive Oil & Gas Lease Sale. Parcel COC75311 was partially deferred and that part is not subject to protest.

Responses from White River Field Office (WRFO)

Protest: The BLM does not consider impacts to watersheds and river drainages from climate change factors as required by NEPA.

Response: The Bureau of Land Management (BLM) addresses climate change in the cumulative impacts section of the air quality impacts analysis contained in the Environmental Analysis (EA). In addition, the EA discusses erosion and increased surface runoff as impacts from oil and gas development. The EA also explains that climate change may lead to more extreme storm events and droughts, which may result in impacts associated with changes in surface runoff characteristics and erosion.

Protest: The WRFO currently imposes setback stipulations for streams and riparian areas that are not adequate. The EA is negligent in not addressing the implementation of protective measures and stipulations for water resources.

Response: The WRFO Resource Management Plan (RMP) does not require buffers for water features; however, the BLM analyzes protective measures that will benefit water resources in the impact analysis. The BLM discusses soil stipulations that protect water resources in detail in the impact analysis. The soil stipulations address fragile soils and unstable soils. Because development activities in these areas are more likely to result in impacts to water resources,

BLM applies a Controlled Surface Use (CSU) or a No Surface Occupancy (NSO) stipulation to parcels where they occur.

Protest: As the use of horizontal drilling and hydraulic fracturing increase across the WRFO, threats to surface waters and groundwater associated with natural gas development increase.

Response: In the EA, the BLM discusses impacts from drilling, completion and hydraulic fracturing of wells, as well as the review process for drilling plans describing these practices that would be submitted with the Application for Permit to Drill (APD) needed to develop leases. Drilling plans would contain information about individual wells and well construction measures such as cementing and casing strength important for the protection of water resources.

Protest: The release of contaminants from deep groundwater such as brines is not assessed.

Response: The EA describes impacts from produced water disposal practices such as injection wells and it discusses well completion practices as the primary method avoiding a release of contaminants into groundwater resources. Produced water is the term used in the EA for deep groundwater and brines.

Protest: Exceeding the EPA value by a significant rate, questions about Colorado's air emission exceedences from oil and gas development must be further analyzed.

Response: The impact analysis describes the potential increase in emissions from development of the leased parcels. Operators will be required to obtain appropriate emissions permits from Colorado Department of Public Health and Environment (CDPHE), and for purposes of analysis, BLM assumes that operators will comply with the law and that CDPHE will administer the permits in such a way as to not exceed National Ambient Air Quality (NAAQ) standards.

Protest: In a recent study evaluating the threats to surface waters from natural gas development Entrekin and her associates found that gas wells are often close to surface waters and could impact these surface waters by elevated sediment runoff from pipelines, roads, contamination from introduced chemicals or the resulting wastewater, and affecting the alteration of streamflows from changes in surface geography.

Response: The BLM describes impacts to surface water in the EA similar to those identified by Entrekin et al. This study does not add new information for this area, but instead describes general impacts from oil and gas development. The general impacts described in this paper and in Colorado Oil & Gas Conservation Commission (COGCC) reports are adequately addressed in the EA. For example, the paper describes proximity to surface waters in relation to the potential releases of sediment and contaminants. The impact analysis for soils describes the potential for release of contaminants and the surface waters section describes potential increases in sedimentation downstream from oil and gas development. Impacts from freshwater used for drilling operations are described in the Floodplains, Hydrology, and Water Rights section and will be evaluated at the APD stage.



Protest: TU is recommending that the BLM permanently withdraw Lease Parcel COC75300 from all further lease sales. The area this parcel is located within contains significant historic, current, and potential CRCT habitat.”

Response: As noted in Trout Unlimited (TU)'s comments (paragraph 3, page 20; and page 24 VII Conclusion), parcel COC75300 is separated from the Lake Creek drainage by > 400 meters of ephemeral channel. The ephemeral drainage is a large side drainage (west of Lake Creek) which directly flows into Lake Creek. In terms of water flow patterns, this would be the most likely way sediment would enter the Lake Creek channel. Lake Creek is separated from the lease parcel boundary by over 400 meters via this drainage. Furthermore, this entire parcel is comprised of slopes ranging from 25 percent to greater than 50 percent. In the event that this parcel is developed, pad placement likely would be on the ridge top above the creek, which is separated from the creek by one mile of ephemeral drainage. With the application of Controlled surface Use (CSU) -02 and 06 (WRRRA RMP/Record of Decision (ROD)), the BLM, can require the proponent to demonstrate that the proposed surface disturbing activities will not influence the character of the existing system including features such as gradient, sediment load, vegetative communities, and water quality. It should be noted that sampling conducted by the BLM Northwest (NW) District fisheries biologist indicate the Lake Creek population is not a genetically pure strain of Colorado River cutthroat trout (CRCT) and therefore is not considered a conservation population. Because sufficient mitigation measures are available to the BLM, deferral of the parcel is not necessary.

Protest: TU requests that Parcel COC75311 be deferred until further analysis is completed and stronger buffer stipulations can be applied.

Response: Discussions with BLM fisheries biologist and Colorado Parks & Wildlife (CPW) fisheries biologist on April 4, 2012, indicate Coal Creek is classified as CRCT habitat. CPW has no recent sampling data and currently is unsure if the system is occupied by CRCT or, if so, whether the population is a genetically pure strain. Neither BLM nor CPW have any evidence that this system is currently occupied by CRCT. Based on the potential for hybridization from both downstream and upstream sources, it is unlikely this system supports a genetically pure strain of CRCT. The WRFO recommends the following portions of this parcel for deferral: Section 30: Lot 2, 3, and 5. The portion of the parcel located in section 30 is recommended for deferral as it is located within a 5000 meter buffer of a recently discovered Columbian sharp-tailed grouse lek. Additionally, this portion of the parcel encompasses Nine Mile Draw, a perennial system that empties into Coal Creek (nearest point 200 meters from the point of the lease parcel boundary intersects with Nine Mile Draw to the Coal Creek drainage). Portions of the parcel located in section 29 cross the Coal Creek drainage. With the application of CSU-02 and 06, the BLM would be able to alleviate impacts to aquatic resources.

Protest: The BLM failed to analyze site-specific impacts resulting from offering the parcels for lease.

Response: At the leasing stage, BLM cannot predict exactly what level of development, if any, will occur on a leased parcel. Site-specific impacts will be further analyzed upon receipt of an application for permit to drill or other development proposal.

Protest: The BLM's Analysis is inadequate because it relies on outdated information and its reliance on this document is insufficient to satisfy NEPA. Because the BLM relied solely on its outdated RMP and failed to supplement its environmental analysis, the BLM did not satisfy NEPA. Lease Sales should be stayed during revision of Resource Management Plan and Oil and Gas Leasing RFD EIS and the BLM must withdraw Parcel COC75300 and temporarily defer Parcel COC75311 until the Final RMP and Record of Decision for the White River field office is completed.

Response: Nothing in the Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) regulations requires postponing or denying a proposed action that is covered by the environmental impact statement for an existing land use plan. It is Bureau policy to follow current land use allocations and existing land use plan decisions while preparing land use plan amendments. Temporary deferral of specific parcels from leasing is considered on a case by case basis where alternatives have been established and specific BLM-recognized resource concerns have been identified. There is no area-wide moratorium on all leasing during the planning process. Until the final decision on the pending amendment is approved, decisions contained in the current RMP completed in 1997 remain valid. In the environmental analyses (DOI-BLM-CO-110-2010-267-EA and DOI-BLM-CO-110-2011-0178-EA), the BLM took a hard look at whether or not the information currently available would cause the BLM to reconsider the previous leasing decision in the White River Resource Management Plan. The analysis is consistent with NEPA.

The decision to offer the above named parcels was made in accordance with Bureau of Land Management policy and regulations. Your protest of the sale of these parcels is dismissed.

Within 30 days of receipt of this decision, you have the right to appeal to the Board of Land Appeals, in accordance with the regulations at 43 CFR Part 4. If an appeal is taken, the procedures outlined in the enclosed Form CSO 1842-1, Information on Taking Appeals to the Board of Land Appeals, must be strictly followed. The form also includes instructions for filing a petition for stay on any decision appealed from. The appellant has the burden of showing that the Decision appealed from is in error.

If you have any questions regarding this response, contact Karen Zurek, Chief, Fluid Minerals Adjudication at (303) 239-3795.

Sincerely,

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

Enclosure

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cc: National Wildlife Federation, 2260 Baseline Rd., Ste. 100, Boulder, CO 80302  
Manager, Kent Walter, White River Field Office



**United States Department of the Interior**  
**BUREAU OF LAND MANAGEMENT**  
**Colorado State Office**  
**2850 Youngfield Street**  
**Lakewood, Colorado 80215-7076**



In Reply Refer To:  
3120 (CO-922) KZ

Decision

Rocky Mountain Wild  
The Sierra Club  
San Luis Valley Ecosystem Council,  
1536 Wynkoop St., Ste. 303  
Denver, CO 80202

May 10, 2012, Competitive Oil & Gas Lease Sale;  
Protests of COC75297-COC75299, COC75302, COC75304,  
COC75307, COC75313, COC75316-COC75318, COC75322,  
COC75327, COC75328, and COC75330 are Dismissed

This office received protests regarding parcels to be offered in the May 10, 2012, Competitive Oil & Gas Lease Sale. Parcels COC75312 (all) and sec. 19 in COC75322 were deferred and are not subject to protest.

Responses from Little Snake Field Office (LSFO)

Protest: Parcels COC75312 and COC75318 are in greater sage-grouse brood areas according to data from Colorado Parks & Wildlife (CPW). Parcel COC75322 is in greater sage-grouse high priority habitat according to 2007 LSFO BLM data. Parcels COC75312, COC75313, COC75318, and COC75322 are within 4 miles of a greater sage-grouse lek based on COGCC 2008 data. COC75312, COC75313, COC75318, and COC75322 are in medium priority greater sage-grouse habitat according to LSFO BLM 2007 data. Parcel COC75322 is within greater sage-grouse potential core areas based on Colorado Division of Wildlife (CDOW) data. COC75312, COC75313, COC75318, and COC75322 are within greater sage-grouse production area according to CPW 2011 data. COC75312 and COC75318 are within greater sage-grouse winter range based on CPW 2011 data. With all the work BLM is proposing to accomplish with the goal of ensuring better regulatory protections for the greater sage-grouse, in order to avoid endangered species listing, it is irresponsible for BLM to be leasing these parcels. None of these parcels contain adequate stipulations addressing the greater sage-grouse.

Response: In the LSFO Resource Management Plan (RMP) (2011), low, medium and high priority sagebrush habitats were designated. High priority sagebrush habitat consists primarily

of greater sage-grouse core areas and medium priority habitat is a combination of sage-grouse habitat and big game habitat. Some areas of medium priority habitat provide important winter habitat for big game species and are outside of occupied sage-grouse habitat Final Environmental Impact Statement (FEIS) 2-17. If a parcel contains a Medium Priority Habitat controlled surface use stipulation, it does not necessarily mean that the parcel provides habitat for sage-grouse.

Between the comment period and the protest period for this lease sale, CPW identified preliminary greater sage-grouse general and preliminary priority habitat. This is the most recent identification of sage-grouse habitat. Areas outside of preliminary general and preliminary priority habitat are not considered occupied at this time. COC75312 and a portion of COC75322 are now located in sage-grouse preliminary priority habitat and are being deferred from this lease sale. Since the LSFO RMP (2011) did not analyze several recommendations outlined in WO IM 2012-043, all parcels located in sage-grouse preliminary priority habitat are being deferred at this time. Four parcels and portions of two parcels are being deferred from leasing in order to be consistent with WO IM 2012-043.

The portion of COC75322 that is not being deferred is not located within sage-grouse preliminary priority or preliminary general habitat and is outside of the range of occupied habitat. The majority of COC75313 is located outside of preliminary priority and preliminary general habitat, with approximately 40 acres located in preliminary general habitat. COC75318 is located entirely in preliminary general habitat.

The alternatives analyzed and environmental impacts addressed in the LSFO RMP (October 2011) adequately address potential impacts to sage-grouse in preliminary general habitat. Mitigation measures, including a no surface occupancy, controlled surface use and timing limitations were developed during the RMP amendment process to address oil and gas development in sage-grouse habitat. These stipulations have been attached to leases where appropriate and in our judgment are adequate to mitigate impacts to sage-grouse in preliminary general habitat. Environmental impacts are addressed again at a site specific level upon receiving oil and gas operations permits.

Protest: Columbian Sharp-Tailed Grouse.

Response: The alternatives analyzed in the LSFO RMP (October 2011) adequately address potential impacts to special status species, including Columbian sharp-tailed grouse. Mitigation measures, including no surface occupancy and timing limitations were developed during the RMP amendment process to protect this species. Timing limitations to protect nesting and wintering sharp-tailed grouse have been attached to leases where appropriate. In addition, controlled surface use stipulations (1 and 5 percent disturbance thresholds) designed to reduce fragmentation in sage-grouse and big game habitat will reduce habitat fragmentation potential in sharp-tailed grouse habitat.

Protest: The decision is inconsistent with BLM IM 2009-071, BLM IM 2010-028, and BLM IM 2012-043.

Response: This decision is consistent with the above listed Instruction Memorandums (IM). By deferring all parcels located in priority habitat, LSFO is ensuring that mitigation measures developed in the Colorado Northwest (NW) District Greater Sage-grouse Environmental Impact Statement (EIS) can be applied to these parcels if leased at a later date. The excerpts from WO IM 2012-043 apply to preliminary priority habitat and none of the parcels in the lease sale are within preliminary priority habitat.

Protest: BLM failed to consider significant new information.

Response: Based on new information summarized in “A Report on National Greater Sage-Grouse Conservation Measures, Sage-grouse National Technical Team, 2011” the LSFO is deferring all parcels located in preliminary priority habitat. However, the LSFO RMP contains disturbance thresholds that will limit oil and gas disturbance and would be adequate to mitigate impacts to sage-grouse preliminary general habitat.

Protest: BLM failed to consider the best available science in its EA.

Response: Based on the best available science summarized in “A Report on National Greater Sage-Grouse Conservation Measures, Sage-grouse National Technical Team, 2011” the LSFO is deferring all parcels located in preliminary priority habitat. However, the LSFO RMP contains disturbance thresholds that will limit oil and gas disturbance and would be adequate to mitigate impacts to sage-grouse preliminary general habitat. The LSFO considered the best available science and made the decision to defer the leasing of all parcels located in preliminary priority habitat.

Protest: The decision fails to adequately analyze the direct, indirect, and cumulative effects of leasing these parcels.

Response: Oil and gas leasing in the LSFO remains within the reasonably foreseeable development projections as described in LSFO RMP (2011) on p. ES-12 and in Appendix B and summarized in Chapter 2 of the 1991 Colorado Oil and Gas Leasing and Development Final Environmental Impact Statement (FEIS). Cumulative impacts were analyzed for such development and not considered significant because of the small area of permanently disturbed area.

The LSFO reviewed the resource protection stipulations developed in the LSFO RMP (2011) and 1991 Colorado Oil and Gas Leasing and Development FEIS and determined that the oil and gas leasing decisions made are still valid.

Protest: The BLM has failed to adequately analyze the effectiveness of the lease stipulations and other mitigation measures in the EA and DNA, and the determination that lease stipulations and other mitigation measures will prevent significant impacts to greater sage-grouse is arbitrary and capricious.

Response: In the LSFO RMP Final Environmental Impact Statement (FEIS), site-specific studies from throughout the west were taken into consideration while developing management prescriptions for the sage-grouse. The RMP/FEIS utilizes information from Connelly et al. 2000, Naugle et al. 2004 and 2006, Holloran 2005, Walker et al. 2007, Doherty et al. 2008, and others, to analyze impacts and develop mitigation or protective measures. Research in Wyoming and Montana (Holloran 2005; Naugle et al. 2006a, 2006b) suggests that standard stipulations (0.25 mile No Surface Occupancy (NSO) and 2 mile TL) designed to avoid significant impacts to sage-grouse are not effective, at least when in areas experiencing intense energy development. This research led BLM to consider both the lek NSO buffer (0.6 miles) and the timing limitation buffer (4 miles) in the range of alternatives in the Little Snake RMP/FEIS. Additionally, the studies led the BLM LSFO to develop a new approach to protect sage-grouse habitat in the land use plan. The RMP/FEIS included an approach to reduce habitat fragmentation and preserve large blocks of undisturbed habitat. After the release of the RMP/FEIS, more recent research became available, which resulted in the BLM including mandatory 1 percent and 5 percent surface disturbance limitations for new leases in high and medium priority sagebrush habitats, as well as incorporation of the 0.6 mile NSO and 4-mile timing limitation, under Alternative C. In our judgment, this analysis is still valid in areas mapped as preliminary general habitat.

Protest: The BLM failed to prevent undue and unnecessary degradation to greater sage-grouse populations and has failed to meet its obligations under BLM Manual 6840.

Response: The BLM manages special status species and their habitat in accordance with BLM Manual 6840 “with the objectives to: (1) to conserve and/or recover Endangered Species Act (ESA)-listed species and the ecosystems on which they depend so that ESA protections are no longer needed for these species and (2) to initiate proactive conservation measures that reduce or eliminate threats to Bureau sensitive species to minimize the likelihood of and need for listing of these species under the ESA.”

CPW is participating in a collaborative conservation effort designed to support greater sage-grouse populations and protect greater sage-grouse habitat, so that there is no need for the federal government to list the bird. Recently, CPW biologists completed a map of preliminary priority and preliminary general greater sage-grouse habitat in northwestern Colorado at the request of the BLM. The map depicts the current distribution of the bird in Colorado, based on the best available science. It provides a biological basis for land use recommendations that focus conservation efforts on the most important habitat.

Recently published data on sage grouse response to natural gas development became available between the draft and final EIS. This science was especially pertinent because of implications for Wyoming Greater Sage-Grouse habitats. The new data, coupled with the BLM sensitive species management guidance, prompted a state-wide discussion between the BLM Wyoming State Office and representatives from all field offices in October 2007 on management direction for sage-grouse habitats.

Protest: BLM must prevent unnecessary or undue degradation. The BLM has a duty under the Federal Land Policy and Management Act (FLPMA) to prevent unnecessary and undue degradation to the lands under its management.

Leasing the protested parcels as proposed will result in unnecessary and undue degradation to rare and imperiled species and their habitat, including the greater sage-grouse, white-tailed prairie dog, Colombian sharp-tailed grouse and other sensitive species.

Response: Restrictions are applied to field operations by federal regulation, based on all applicable laws and Section 6 of the lease instrument. Federal oil and gas leasing regulations are found in the Code of Federal Regulations (CFR), Title 43 Part 3100. These regulations are mandatory and give the Authorized Officer (AO) authority to determine how field operations are conducted. Operations which fall within the jurisdiction of other federal or state and local agencies may also be field inspected by those agencies.

The BLM analyzed the impacts of leasing the nominated parcels in the 2011 LSFO RMP FEIS. LSFO will conduct site-specific National Environmental Policy Act (NEPA) analysis when exploration or drilling activities are proposed. The NEPA document review procedures help to assure identified mitigation measures will prevent undue and unnecessary degradation of the leased lands.

Protest: The BLM must mitigate the adverse effects on the aforementioned imperiled species in order to comply with the unnecessary and undue degradation standard of FLPMA. The BLM has failed to minimize adverse impacts of oil and gas development on the aforementioned species.

Response: All proposed oil and gas development is evaluated for potential impacts to BLM sensitive species, as required by BLM policy. If any special status species is identified in the LSFO, it is protected through no-surface-occupancy stipulations and any other actions needed to prevent its deterioration and allow its recovery. The LSFO staff regularly communicates with the US Fish & Wildlife Service, (USFWS) CPW, Colorado Natural Heritage Program (CNHP), US Geological Survey, (USGS) Natural Resources Conservation Service (NRCS), and other qualified sources. Specific mitigation is applied on a site by site basis at the time of development.

The alternatives analyzed and environmental impacts addressed in the 1991 Colorado Oil and Gas Leasing and Development FEIS, in our judgment, adequately address current environmental concerns, interests, and resource values including sensitive species. Environmental impacts will be evaluated again at a site-specific level upon receipt of oil and gas Applications for Permit to Drill.

Oil and gas leasing in the LSFO remains within the reasonably foreseeable development projections as described in Appendix B and summarized in Chapter 2 of the 1991 Colorado Oil and Gas Leasing and Development FEIS. Cumulative impacts were analyzed for such development and not considered significant because of the small area of permanently disturbed area.

Protest: The BLM is violating FLPMA because it is not being consistent with the policies of state, tribal, and other agencies in its conservation policies regarding greater sage-grouse, whit-



tailed prairie dog, and Colombian sharp-tailed grouse. The proposed leasing is not consistent with COGCC Regulations and other state, local and federal policies and programs.

Response: Restrictions are applied to field operations by federal regulation, based on all applicable laws and Section 6 of the lease instrument. Federal regulations are found at 43 CFR, Part 3100. These regulations are mandatory and give the AO authority to determine how field operations are conducted. Operations which fall within the jurisdiction of other federal or state and local agencies may also be field inspected by those agencies.

Protest: The US Fish and Wildlife Service announced that the greater sage-grouse will receive Endangered Species Act protection. Leasing parcels in occupied greater sage-grouse habitat is a violation of BLM's duty to manage its land for multiple uses. One reason for the listing determination was a lack of regulatory mechanisms to protect this species. BLM's action in leasing occupied habitat for energy development further demonstrates the agencies lack of protective mechanisms. This leasing is going to further contribute to the need to list the species. It is clear through FWS comments to the LSFO RMP that they don't believe the mitigation measures attached to the protested parcels are adequate. This criticism by a sister agency should have been considered. It is clear the BLM CO is not acting in line with the Washington Office mandates or the clear FWS guidance. Until this leasing can be conducted in a way that complies with these suggestions and directives, leasing of these parcels should be deferred.

Response: Greater sage-grouse are a Candidate for listing under the Endangered Species Act (ESA). Currently this species has no protection under ESA.

In an effort to avoid the federal listing of the Greater sage-grouse, the BLM is developing a national strategy to preserve, conserve, and restore sagebrush habitat, the ecological home of the greater sage-grouse. The BLM has issued national policy and direction, based on local needs and information, to guide the agency's actions and raise the importance of sagebrush conservation in BLM planning efforts. At the local level, BLM Colorado has initiated a formal plan amendment for Northwest Colorado BLM RMPs to reflect the new conservation measures.

All proposed oil and gas development is evaluated for potential impacts to BLM sensitive species, as required by BLM policy. If any special status species is identified in the LSFO, it is protected through no-surface-occupancy stipulations and any other actions needed to prevent its deterioration and allow its recovery, as identified in the LSFO RMP. The LSFO staff regularly communicates with the USFWS, CDOW, CNHP, USGS, NRCS, and other "qualified" sources. Specific mitigation is applied on a site by site basis at the time of development.

Protest: Duty to conserve and duty to engage in recovery planning. In addition to consultation requirements, federal agencies are bound by two affirmative obligations under the ESA. Section 7(a) (1) states that federal agencies shall "seek to conserve [listed] species and shall utilize their authorities in furtherance of the purposes of [the] Act." 16 USC 1536 (a) (1). The ESA also states that the Secretary "shall develop and implement plans for the conservation and survival [of listed species] unless he finds that such a plan will not promote the conservation of the species." 16 USC 1533 (f) (1).

Response: Leasing the mineral rights to a particular parcel does not have any effect on threatened, endangered, proposed or candidate species or their critical habitat. Through stipulation CO-34, the BLM advises lessees that if these species or their habitats exist on the parcel at the time of development, the BLM will consult with the USFWS as required by the Endangered Species Act. This stipulation also states that we may modify or disapprove their proposed action in order to comply with the requirements of the ESA.

Protest: BLM has discretion to Not Lease. Under the statutory and regulatory provisions authorizing this lease sale, the BLM has full discretion over whether or not to offer these lease parcels for sale.

Response: The 1920 Mineral Leasing Act, as amended, authorizes the Secretary of the Interior to lease oil and gas resources on public domain and acquired land. To lease federal oil and gas, a decision must be reached by the BLM as to which lands to lease. If the BLM decision is to lease a parcel of land, additional actions will be required before on-the-ground operations begin. For each action, conformance with the RMP and compliance with NEPA is certified. Lease operations must conform to the decisions in the RMP.

The BLM elected to eliminate from the RMP (October 2011) a Resource or Planning Area wide No Leasing Alternative, but did consider an alternative (Alternative D, RMP[2011], p. 2-63) to close more acreage to leasing. Alternative D was analyzed and not selected. A No Lease decision is made where it is determined that oil and gas leasing is not in the public's interest. No Leasing was considered and analyzed on a site-specific basis as part of the analyzed alternatives in the 1991 Colorado Oil and Gas Leasing and Development FEIS. Where it was determined that even the most restrictive mitigation available NSO would not adequately mitigate conflicts or environmental consequences, which could indicate that leasing is not in the public's interest, a No Leasing decision was considered. A No Lease decision is reached only after careful consideration of conflicting resource values and uses and environmental consequences.

#### Responses from White River Field Office (WRFO)

Protest: Parcels COC75316, COC75317, COC75327, COC75328, COC75329, COC75330, COC75302, COC75304, COC75297, COC75298, COC75299, and COC75307, none of these parcels contain adequate stipulations addressing the greater sage-grouse.

Response: Parcels COC75316 and COC75317 are largely comprised of an aspen/mountain shrub matrix with small (3 - 10 acres in size), discontinuous sagebrush parks. This habitat has extremely limited potential for sage-grouse occupation. The nearest known lek (no evidence of recent occupation) is located approximately 4.75 miles away from parcels. Comments received by CPW during the comment period indicated no concerns with the leasing of these parcels.

Based on CPW, refined mapping (finalized March 15, 2012) parcels COC75327, COC75328, COC75329, and COC75330 do not occur in priority or preliminary general sage-grouse habitat due to the lack of suitable habitat.

Parcels COC75302, COC75304, COC75297, COC75298, and COC75299 overlap with preliminary general sage-grouse habitat as mapped by CPW. Average slope throughout these parcels is approximately 18-20 percent, making it highly unlikely for use by grouse. Small inclusions of sagebrush along the ridge top provide minimal habitat for grouse. CPW indicated no concerns with the leasing of these parcels (Brian Holmes, personal communication). Should local sage-grouse populations recover to a level that would allow for consistent occupation of these marginal habitats, stipulations attached to the lease (CO-34) for the protection of special-status species would allow the BLM to apply Conditions of Approval (COA) if deemed necessary.

As discussed in the Environmental Assessment (EA) and reiterated again here, Parcel COC75307 contains roughly 50 acres of sagebrush habitat that is virtually detached from what may be considered minimally suitable habitat to the north. The nearest lek (inactive since the 1980's) is nearly 15 miles away. Comments received by CPW during the comment period indicated no concerns with the leasing of this parcel. Stipulation CO-34, which is attached to this parcel, would allow the BLM to apply COA's if deemed necessary.

Protest: Parcel COC75307 overlaps with an active white-tailed prairie dog colony according to CPW data. This parcel does not have any stipulations aimed at protecting this sensitive species. BLM should defer leasing this parcel until the appropriate stipulations have been attached to ensure development does not contribute to further population declines.

Response: The colonies in this area were originally mapped in the mid 1970's involving an extremely imprecise mapping protocol (approximation on topo maps). This colony is one in a string of small, isolated colonies that are separated from any large, continuous prairie dog complexes by a minimum of 8 miles. Like most other prairie dog towns in this resource area, these colonies have been subject to episodes of plague. Due to the large distance between them, it is unlikely the larger complexes to the north could provide a source population for these small colonies. More refined/updated mapping conducted in 2007 (B. Holmes, BLM) showed that while some of these colonies still contained small numbers of prairie dogs, the colony overlapping the parcel in question showed no evidence of occupation.

Protest: Parcels COC75328 and COC75330 contain black-footed ferret release sites based on COGCC data. BLM should defer leasing these parcels until its effects on the black-footed ferret have been fully analyzed.

Response: Approximately 12 acres of parcel COC75330 and 154 acres of parcel COC75328 are located within the Wolf Creek Management Area. Habitat within parcel COC75330 is comprised nearly entirely of barren 35 percent to greater than 50 percent slopes which are obviously unsuitable for ferret occupation. Similarly, parcel COC75328 is largely pinyon-juniper woodlands separated from the remainder of the Management Area by 35 – 50 percent slopes. Based on recent survey results (high of 16 individuals in 2007, 0 individuals in 2009 and 2010) there is strong suspicion that there are no remaining ferrets in the Management Area due to the most recent plague epizootic.

Protest: Parcels COC75312, COC75313, COC75316, and COC75318 contain Columbian sharp-tailed grouse overall range and winter according to 2011 CPW data. BLM should defer the parcels in Columbian sharp-tailed grouse habitat until proper stipulations have been attached.

Response: WRFO has recommended sections 23 and 24 of parcel COC75316 for deferral. Additionally, a new lek has been documented by CPW; BLM was notified of that information in an email dated April 3, 2012. WRFO also has recommended the following parcels or portions thereof for deferral: Parcel 6053; Sec. 18, NWSE, SWSE, Lots 8 & 9; Parcel 6169: Sec 30, Lots 2, 3 & 5; Parcel 6170: Sec 34, S2, SENE, SWNE, SENW, Lot 4, Sec 35, S2, S2N2, Sec 36, S2, SENW, SWNW; Parcel 6210: Sec 33, Lots 13, 16, 24, 26; Parcel 6057: Sec 3, Lot 3, 4; S2NW, SW, Sec 4, Lot 24, SESE; Parcel 6058: Sec 9, NW1/4, Lot 5, NWSE, NESW, NWSW, SESW, Sec 10, NENW, Lots 1, 4, 5, 16.

Protest: The BLM failed to consider the best available science in its EA.

Response: The BLM relied upon the best available science, including “A Report on National Greater Sage-Grouse Conservation Measures”, Sage-grouse National Technical Team, 2011, and recent mapping from CPW of preliminary priority and general Greater Sage Grouse habitat in its analysis of the parcels proposed for leasing.

Protest: The Decision fails to adequately analyze the direct, indirect, and cumulative effects of leasing these parcels.

Response: Direct, indirect, and cumulative effects were analyzed in DOI-BLM-CO-110-2010-267-EA, DOI-BLM-110-2011-0056-EA, and DOI-BLM-CO-110-2011-0178-EA. Fourteen parcels offered in the May 2012 lease sale were analyzed in DOI-BLM-CO-110-2010-267-EA and DOI-BLM-110-2011-0056-EA and were deferred after the Finding of No Significant Impact (FONSI) and Decision Record (DR) were signed to allow the BLM to meet with the proponents of a Mineral Leasing Plan (MLP).

Protest: The BLM failed to prevent undue and unnecessary degradation to greater sage-grouse populations and has failed to meet its obligations under BLM Manual 6840 and allowing development in occupied greater sage-grouse habitat is a violation of Federal Land Policy and Management Act of 1976 (FLPMA) and the BLM Manual.

Response: Rocky Mountain Wild did not describe in detail specifically how the leasing of these parcels would violate FLMPA and the BLM Manual and result in undue and unnecessary degradation to greater sage-grouse populations.

Protest: BLM must prevent unnecessary or undue degradation and leasing the protested parcels as proposed will result in unnecessary and undue degradation to rare and imperiled species and their habitat, including the greater sage-grouse, white tailed prairie dog, Columbian sharp tailed grouse and other sensitive species.

Response: Rocky Mountain Wild did not describe in detail specifically how the leasing of these parcels would violate FLMPA and the BLM Manual and result in undue and unnecessary

degradation to greater sage-grouse populations. The BLM has determined that no unnecessary or undue degradation would occur from leasing.

Protest: The BLM is violating FLPMA because it is not being consistent with the policies of state, tribal, and other agencies in its conservation policies regarding greater sage-grouse, white tailed prairie dog, and Columbian sharp-tailed grouse.

Response: The protesters did not identify specific policies or describe in detail as to how leasing these parcels is inconsistent with FLPMA. The BLM is consistent with FLPMA as FLPMA does not require leasing decisions to be consistent with State and local plans.

The decision to offer the above named parcels for leasing was made in accordance with Bureau of Land Management policy and regulations. Your protests of the sale of these parcels are dismissed.

Within 30 days of receipt of this decision, you have the right to appeal to the Interior Board of Land Appeals, in accordance with the regulations at 43 CFR Part 4. If an appeal is taken, the procedures outlined in the enclosed Form CSO 1842-1, Information on Taking Appeals to the Board of Land Appeals, must be strictly followed. The form also includes instructions for filing a petition for stay of any decision appealed from. The appellant has the burden of showing that the Decision appealed from is in error.

If you have any questions regarding this response, contact Karen Zurek, Chief, Fluid Minerals Adjudication at (303) 239-3795.

Sincerely,

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

Enclosure:

CSO Form 1842-1

cc: National Wildlife Federation, 2260 Baseline Rd., Ste. 100, Boulder, CO 80302  
Trout Unlimited, 250 No. 1st St., Lander, WY 82520  
Wilderness Society, 1660 Wynkoop St., Ste. 850, Denver, CO 80202  
Manager, Kent Walter, White River Field Office  
Manager, Wendy Reynolds, Little Snake Field Office