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Kent Hoffman
Deputy State Director
Division of Lands and Minerals
Bureau of Land Management
Salt Lake City, Utah

RE: PROTEST OF CERTAIN PARCELS TO BE OFFERED AT BLM'S MAY 2006 OIL & GAS LEASE SALE

Dear Sir or Madam:

In accordance with 43 C.F.R. §§ 4.450-2 and 3120.1-3, a number of nonprofit conservation groups protest certain parcels being offered at the Bureau of Land Management's (BLM) May 2006 competitive oil and gas lease sale, see Figure 1.

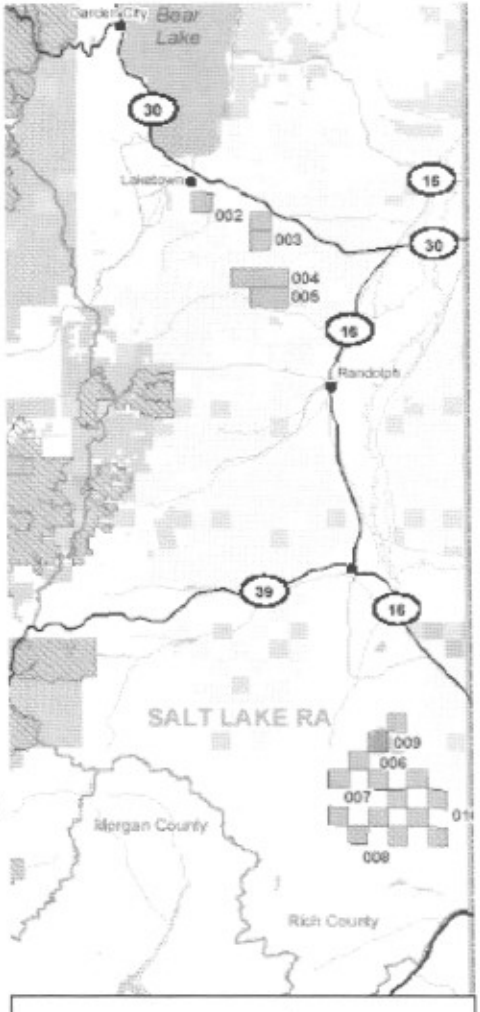

Figure 1, General location of parcels for lease shown in orange

A few of our individual members and several of our organizations are part of the Rich County Coordinated Resource Management Planning (CRM) program. We view this CRM program as potentially offering beneficial solutions to some of the most difficult land use problems we face. For that reason we have been either directly or indirectly involved in helping the CRM learn from many experts and seasoned land users, as well as helping provide our own resources to carry out an open public decision process that will improve wildlife habitat and at the same time ensure sustainable and appropriate grazing practices on BLM lands. The parties involved in this CRM agreed to a set of goals that include improving and maintaining healthy ecosystems, sustainable agriculture, and broadening the diversity of economic activities found in the County.

Because of a written agreement between the Rich County CRM and BLM, BLM has the obligation to provide important information about agency decisions that affect the goals that BLM and other CRM members have jointly agreed to work towards. While notice available to the public was circulated about these lease sale, there is no record that as part of the CRM collaborative process BLM advised the CRM about this pending sale of oil and gas leases. BLM's

communications in this manner may pose an inconsistency with the spirit and letter of the collaborative agreement.

The lands offered for sale are shown in Figure 1 in orange. The location of these leases is generalized to roughly the section and the actual boundaries may differ within that section. These leases are in important wildlife habitat of concern to the CRM. The potential impact of oil and gas exploration or development will have a profound impact on a number of significant avian, terrestrial, and aquatic wildlife species in this area. Further, this development could place at risk the continued economic viability of the ranching industry dependent upon these lands.

The proposed oil & gas lease stipulations generally would allow wells to be placed anywhere within the leased area and limit "activities" relating to the mineral development for a few months in the early part of the year. Additionally, there are a few small locations where wells would not be allowed within a few hundred feet of a stream. These stipulations are not dated. In the past twenty years, a number of management practices have been developed and evaluated that have found the 1980 stipulations in the Randoph MFP inadequate. Based on field monitoring and scientific analysis conducted in the past decades, it is commonly accepted that a well located either on or within a close distance of (for example) a sage grouse lek can lead to permanent displacement of that local population. We recommend that BLM work with the CRM to assemble the best information and new oil stipulations suited for this local. The stipulations that come with these leases are out of date and fail to incorporate the most current science and management practices.

We recognize the need for oil and gas. In order to balance local needs with energy development, we advocate that this occur in a manner that ensures that local land users and wildlife needs are adequately met. At a time when oil and gas companies are making unprecedented profits, it makes sense to take up the promise oil companies have given to develop oil and gas with the minimum disturbance to the land. For example, stipulations on well and road density and wildlife buffers from wells can more easily be met with directional drilling.

These lease sales may include leasing that allows for coal bed methane (CBM) development. If that is the case, then additional analysis will be needed since this development leads to another different set of surface disturbance and water management issues. The MFP did not consider CBM and a lease issued that allowed such development would not be adequately covered by this earlier plan. If CBM is being proposed, then a plan revision will be needed to develop the special stipulations needed for CBM development.

The lease sales protested in this letter all in Rich County in the Salt Lake Field office include five parcels listed here. These parcels proposed for sale for lease are described in a BLM announcement (3120 (UT-922):

UT0506-003	580 acres
UT0506-004	1,840 acres
UT0506-005	1,280 acres
UT0506-006	1,243 acres
UT0506-010	1,274 acres

The remedy we suggest is to delay offering these leases until the Rich County CRM and the Randolph MFP revision have time to develop with BLM that management stipulations and mineral leasing practices appropriate for this area.

The sections of this note that follow describe why this action is a significant federal action not covered by past environmental analysis now more than 20 years old. These comments will outline the alternatives that need to be considered and how the stipulations attached to the current sale is therefore arbitrary because they are not based on current information, best known practices to meet land user needs, wildlife habitat requirements, and other resource goals.

I. THE PARTIES

The **Sierra Club** is a non-profit organization with over 770,000 members in the United States. For more than four decades our members, many of whom live locally, use the areas proposed for oil and gas leasing in a number of ways. These lands offered for lease line in the watersheds that provide a number of resources for communities where our members live. These lands provide recreation and a living which would be possibly placed at risk under proposed oil and gas development. Our members are ranchers, hunters, fishers, wildlife managers, scientists, photographers, hikers, campers that use these lands for personal and work-related purposes.

The **Wild Utah Project** is a non-profit organization affiliated with the Wildlands Project. For nearly a decade, we have provided scientifically based analysis to apply the principles of conservation biology to promote a healthy and productive ecosystem. We advocate for sustainable agriculture in deference to the needs of wildlife. We have scientific research to restore wildlife habitat in a manner that promotes continued ranching might be in conflict with oil and gas development.

The **Western Wildlife Conservancy** is a non-profit organization which advocates for the protection of wildlife native to the intermountain West through research, education and advocacy. Our primary focus is protection of habitat for native mammal predators. These include the following families and species: Ursidae (grizzly and black bear), Felidae (mountain lion, Canada lynx and bobcat), Canidae (gray wolf, coyote, and the gray, red, swift and kit fox), and Mustelidae (wolverine, fisher, marten and other members of the weasel family). Our staff and members use the area under consideration for leasing.

The **Wilderness Society** remains true to their principles and dedicated to the concept that careful, credible science, bold advocacy, and unswerving vision are essential underpinnings of conservation policy. We're spirited people protecting America's Wilderness since 1935 through the potent combination of science, advocacy and education. Many of our members will be impacted by degradation of wildlands in the project area. Our mission is to deliver to future generations an unspoiled legacy of wild places, with all the precious values they hold: Biological diversity; clean air and water; towering forests, rushing rivers, and sage-sweet, silent deserts.

The **Biodiversity Conservation Alliance** (BCA) is a non-profit conservation organization with hundreds of members in Wyoming and other states. BCA is dedicated to protecting Wyoming's wildlife and wild places, with a particular emphasis on public lands. BCA's members live in all of the Field Office areas where lease parcels would be offered in the

December 2005 lease sale. BCA members utilize land and water resources within and near these areas for hiking, fishing, camping, recreational, scientific study, and aesthetic uses. BCA is actively involved in BLM oil and gas activities in this region and participates in all NEPA stages of BLM oil and gas projects by involving its staff and members in submitting comments and attending public meetings. BCA has a long record of advocating for environmentally sound oil and gas development in Wyoming and throughout the West. Consequently, the BCA and its members would be adversely affected by the sale of the lease parcels at issue here and have an interest in this matter.

II. AT RISK: WILDLIFE, OPEN SPACES, AND CLEAN AIR AND WATER

Oil and gas activities on the public lands at issue here face an accelerated effort to approve more lands for oil and gas development in the west. These lands are mostly federal lands managed by BLM. Many of these lands provide critical habitat for a number of species, including sage grouse, pigmy rabbits, several sage-steppe birds, mule deer, and imperiled fish in the Bear River Basin. Equally of importance, these same lands are a critical economic resource to the ranching community. Further, these lands provide excellent recreational opportunities for hiking, birding, wildlife viewing, hunting, fishing, backpacking.

Significant oil and gas development on these lands has in other regions led to substantial loss of health and productivity of the land. Oil and gas development has in many areas led to fragmented habitat and surface disturbances through well pad construction, oil and gas well rigs, increased vehicular traffic, miles of roads, pipelines and power lines, and noise from generators and compressor stations. All of these associated activities serve to disrupt habitat, destroy nesting and brooding grounds, and disturb wildlife. These activities can negatively affect elk, mule deer, sage grouse and pronghorn antelope as many of these lands serve as crucial winter range for elk, pronghorn antelope and mule deer, as well as critical breeding and nesting habitat near sage grouse leks. Many rare species find some of their last secure refuges on these lands.

In addition, many of these lands have been used by ranchers and farmers for generations, yet BLM would allow minerals development on these lands without having taken steps to fully protect the rights and interests of surface owners. While policy such as BLM IM No. 2003-131 provides instruction on how protections for surface owners are to be afforded <u>after</u> a lease is granted, there is nothing that prevents BLM from ensuring even greater protection of surface owner interests <u>before</u> leasing. As planned here, leasing of several of the parcels could have severe consequences for surface owners, a situation BLM has failed to mitigate to the full extent possible at this pre-leasing stage. Consequently, Utah's rural heritage and lifestyle are threatened by the sale of the lease parcels protested here.

Of course, the Parties realize that a lease itself does not create immediate disturbances. However, experience shows that BLM consistently discards the "no action" alternative in literally every post-lease oil and gas project, the lease, if it does not require "no surface occupancy" (NSO), conveys the right to the buyer to some level of development. In other words, it is near impossible for BLM to completely say "No" to future oil and gas activities, even if sensitive resources could be harmed, once it sells a non-NSO lease. For this reason, the leasing stage is extremely critical as it represents an irretrievable and irreversible commitment of

resources. Given this level of importance, and particularly due to the many legal violations that will occur on the date of the sale of the parcels at issue here, the Parties are filing this Protest.

III. Offering to Lease Parcels in Rich County without the Review of the Rich Coordinated Resource Management Program conflicts with BLM's Agreement for Coordination Prior to Making a Decision.

The Federal Land Policy and Management Act (FLMPA) requires BLM to "coordinate the land use inventory, planning, and management activities of or for [public lands] with the land use planning and management programs of . . . the States and local governments . . . by, among other things, considering the policies of approved State and tribal resource management programs." 43 U.S.C. § 1712(c)(9) (emphasis added). BLM must give special attention to "officially approved and adopted resource related plans" of other federal agencies. See 43 C.F.R. § 1601.0-5(g).

BLM has chosen to offer for sale several parcels that are in grazing allotments where the Rich County CRM has underway a program for range projects and grazing practice changes to benefit both wildlife and ranching. For a number of years, BLM has been under an agreement with Rich County to collaborate on a number of goals that affect wildlife and grazing. This agreement comes with a expectation that BLM will share with the CRM information on pending actions that may affect achievement of the goals established by the CRM. There is no record in the minutes of the CRM, which are comprehensive and open to review, that BLM presented these oil and gas lease sale for considering by this CRM. For this reason, coordination expected under the 2003 Rich County CRM agreement has not been fulfilled.

IV. The Rich County Parcels Have Not Been Subjected To the Pre-Leasing Environmental Analysis Required By The National Environmental Policy Act

Only a few small areas near streams in Parcels being offered are subject to a No Surface Occupancy (NSO) stipulation. For those lands where surface occupancy is allowed, the Interior Board of Land Appeals (IBLA) has reconfirmed that "issuance of a lease without an NSO stipulation conveys to the lessee an interest and right so secure that full NEPA compliance must be conducted prior to the decision to lease." Southern Utah Wilderness Alliance, 159 IBLA 220, 241-243 (2003) (citing Wyoming Outdoor Council, 157 IBLA 259, 264-65, 272-73 (2002)).

NEPA requires that an agency adequately assess the environmental impacts of the proposed action before making its decision. See, e.g., Utahns for Better Transp. v. U.S. Dep't of Transp., 305 F.3d 1152, 1162-63 (10th Cir. 2002). NEPA § 102(2)(c) requires the agency to "consider numerous factors [including] irreversible commitments of resources called for by the proposal." Sierra Club v. Hodel, 848 F.2d 1068 (10th Cir. 1988) (reversed on other grounds). Moreover, NEPA provides procedural protections for resources at risk by requiring analysis of impacts before substantial decisions are made that set development in motion. See Conservation

Law Foundation v. Watt, 560 F. Supp. 561, 581 (D. Mass. 1983), aff'd by Massachusetts v. Watt, 716 F. 2d 946 (1st Cir. 1983).

In 1980, BLM issues a booklet of Randolph Management Framework Plan Decisions. One of these decisions (Minerals M-1.2) presented "standard lease provisions" and special stipulations. Accompanying this planning decision was an environmental analysis report. Unfortunately this environmental analysis, now twenty five years old, was not circulated to the public as part of this leasing process. We have requested a copy of this and will comment further on the adequacy of this analysis for the decision proposed today once this document is reviewed.

A number of conditions have changed in the past 24 years. During that time period, BLM created and completed a Randolph Experimental Stewardship Program which sought to improve wildlife and range productivity. Wildlife monitoring has reported a decline in a number of species. There are a number of issues over the ecological function of major streams in this region that have been identified in the past few years. Other conditions have been reported to have changed since a quarter of a century ago. Additionally, the management practices advocated in the past MPF have been further researched and, based on new findings, the stipulations in place are today not adequate in order to meet range conditions required today. For this reason, the past NEPA analysis is not adequate.

In the oil and gas leasing context, there is a critical legal required for a pre-leasing NEPA study because once the lease is sold BLM loses its authority to deny oil and gas operations on the leasehold. The Balm's oil and gas leasing regulations state clearly that "[a] lessee shall have the right to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold," subject only to lease stipulations, nondiscretionary statutory restrictions, and limited post-leasing mitigation measures. 43 C.F.R. § 3101.1-2. The terms of the BLM's standard oil and gas lease form likewise state that "this lease is issued granting the exclusive right to drill for, mine, extract, remove and dispose of all the oil and gas (except helium) in the [leased] lands."

For those areas in Rich County where Parcels are "non-NSO" leases, meaning, in very simple terms, that they are leases that do not entirely prohibit occupancy of the surface by the lease purchaser, IBLA as reiterated the requirement for full pre-leasing NEPA compliance for non-NSO oil and gas leases. These leases represent an irretrievable commitment of resources:

> BLM regulations, the courts and our precedent proceed under the notion that the issuance of a lease without an NSO stipulation conveys to the lessee an interest and a right so secure that full NEPA review must be conducted prior to the decision to lease. The courts have held that the Department must prepare an EIS before it may decide to issue such "non-NSO" oil and gas leases. The reason, according to the Ninth Circuit, is that a "non-NSO" lease "does not reserve to the government the absolute right to prevent all surface disturbing activities" and thus its issuance constitutes "an irretrievable commitment of resources" under section 102 of NEPA. Friends of Southeast's Future v. Morrison, 153 F.3d 1059, 1063 (9th Cir. 1998), quoting Conner v. Buford, 848 F.2d 1441, 1448-51 (9th Cir. 1988). This commitment is reflected as well in BLM regulations.

Southern Utah Wilderness Alliance, 159 IBLA 220, 241 (2003). BLM likewise has recognized the significance of the commitment it makes when issuing leases in its 1992 Information Bulletin 92-198, applicable to all BLM State Directors: "The simple rule coming out of the Conner v. Burford case is that we will comply with NEPA and ESA prior to leasing." (IB 92-198 (BLM 1992) (emphasis added)). The 10th Circuit's decision in Park County Resource Council v. U.S. Dept. of Agriculture, 817 F.2d 609 (10th Cir. 1987) similarly supports setting aside leases where there has been no environmental analysis because in that case the BLM had prepared a comprehensive, 100-page environmental analysis that covered the leases in question.

BLM's Reliance On Project-Level NEPA documents cannot substitute for an adequate pre-leasing analysis. The Tenth Circuit in Pennaco reversed the District Court decision in its entirety and affirmed that the IBLA was correct in rejecting the use of post-leasing documents to meet pre-leasing NEPA obligations. Pennaco, 377 F.3d at 1160. Similarly, the post-leasing project-level EAs BLM relies on in its July 29, 2003 Rawlins DNA cannot meet BLM's obligation to conduct a pre-leasing analysis because they "did not consider reasonable alternatives available at the leasing stage, including whether specific parcels should be leased, appropriate lease stipulations, and NSO and non-NSO areas." WOC I, 156 IBLA at 359.

As part of the remedy, we request that BLM conduct the needed environmental analysis on this significant federal action as part of the Randolph MFP planning revision.

V. The Important Wildlife Habitat Would Not Be Adequately Managed Under the Suggested Stipulations. Offering these Parcels for Sale Would Violate the Prohibition on Causing Unnecessary or Undue Degradation of the Public Lands.

Most of the parcels have either critical or significantly important wildlife habitat. The stipulations suggested for these parcels would limit surface activities for a few months each year in some habitat and prevent surface disturbance near to a few streams.

There is a growing body of knowledge that shows that these stipulations found in the 1980 Randolph Management Framework Plan (MFP) offer inadequate protection for wildlife. Here is a summary of this kind of information for grouse assembled by Biodiversity Conservation Alliance for a proposed gas development in the Atlantic Rim in Wyoming. These notes offer some of the concepts that it would help to be discussed with BLM in the setting of the Rich County CRM. These comments described some of the management stipulations used in Wyoming, offer scientific evaluations of these, and presents some alternative ideas to consider.

BCA argues that a reasonable alternative would be to place a moratorium on the constructions of well, roads, and other infrastructure for the important nesting habitat that occurs within 2 or even 3 miles of a sage grouse lek, or within 1 mile of a sharp-tailed grouse lek. Holloran (2005:57) stated, "current development stipulations are inadequate to maintain greater sage-grouse breeding populations in natural gas fields." Under the Proposed Action for BLM's Atlantic Rim development proposal, there would be no surface occupancy within ¼ mile of sage grouse leks, with an additional measure presenting human activity during certain hours of the day within this buffer. This is supplemented with the standard seasonal restriction of drilling and construction activities within 2 miles of the lek site (subject, of course, to waiver). For sage grouse, Holloran (2005) demonstrated that wells sited within 1.9 miles (during the post-drilling,

post-construction production phase) caused negative impacts on sage grouse. Under these two action alternatives, wells could be sited within 0.25 miles of a lek site.

Under Alternative C of the Atlantic Rim Project, the most protective alternative, there is an additional limitation within 2 miles of a sage grouse lek or within 1 mile of a sharp-tailed grouse lek, allowing a maximum of 3 miles of roads per square mile and a maximum of 160-acre well spacing. This still would lead to a dense and fragmented habitat. BLM did not offer field monitoring analysis or a scientific basis for the effectiveness of this mitigation measure. Recent BLM-funded sage grouse research (Holloran 2005) demonstrates that these measures are, in these situations, inadequate to prevent significant impacts to breeding and nesting sage grouse. Holloran contended that well densities exceeding 1 well per 699 acres had a negative impact on grouse. Thus based on this research, the effective and scientifically supported mitigation measure would read, "surface well spacing will not exceed 1 well pad per 699 acres." Other aspects of this alternative's mitigation measures for sage grouse suffer from the same shortcomings as those in the other action alternatives.

Wyoming sage grouse populations are some of the largest left in the nation and are relatively stable (showing a 17% decline from 1985-1994); nonetheless, sage grouse populations have experienced major declines range wide in recent decades (Connelly and Braun 1997). The Wyoming Game and Fish Department ("WGFD") reported that since 1952, there has been a 20% decline in the overall Wyoming sage grouse population, with some fragmented populations declining more than 80% (WGFD 2000); one of WGFD's biologists reported a 40% statewide decline over the last 20 years (Christiansen 2000). These declines are attributable at least in part to habitat loss due to mining and energy development and associated roads, and habitat fragmentation due to roads and well fields (Braun 1998). The Rawlins RMP Draft EIS Comments of Dr. Clait Braun, the world's leading sage grouse expert, recommend that oil and gas facilities be located farther than 3 miles from lek sites to protect nesting habitat.

Oil and gas development poses perhaps the greatest threat to sage grouse viability in this part of Wyoming. In a study near Pinedale, sage grouse from disturbed leks where gas development occurred within 3 km of the lek site showed lower nesting rates (and hence lower reproduction), traveled farther to nest, and selected greater shrub cover than grouse from undisturbed leks (Lyon 2000). According to this study, impacts of oil and gas development to sage grouse include (1) direct habitat loss from new construction, (2) increased human activity and pumping noise causing displacement, (3) increased legal and illegal harvest, (4) direct mortality associated with reserve pits, and (5) lowered water tables resulting in herbaceous vegetation loss. All of these impacts must be thoroughly evaluated in the FEIS. Pump noise from oil and gas development may reduce the effective range of grouse vocalizations (Klott 1987). Thus, lek buffers are needed to ensure that booming sage grouse are audible to other grouse during the breeding season. A consortium of eminent sage grouse biologists recommended, "Energy-related facilities should be located >3.2 km from active leks" (Connelly et al. 2000). And Dr. Clait Braun, the world's most eminent expert on sage grouse, has recommended even larger NSO buffers of 3 miles from lek sites, based on the uncertainty of protecting sage grouse nesting habitat with smaller buffers.

The area within 2 to 3 miles of a sage grouse lek is crucial to both the breeding activities and nesting success of local sage grouse populations. One scientist described the lek site as "the

hub from which nesting occurs"(Autenreith 1985). Grouse exhibit strong fidelity to individual lek sites from year to year (Dunn and Braun 1986). Female fidelity to individual nest sites is equally strong (Holloran 2005). During the spring period, male habitat use is concentrated within 2 km of lek site (Benson et al. 1991). A Montana study found that no male sage grouse traveled farther than 1.8 km from a lek during the breeding season (Wallestad and Schladweiler 1974). Other researchers found that 10 of 13 hens nested within 1.9 miles of the lek site during the first year of their southern Idaho study, with an average distance of 1.7 miles from the lek site; 100% of hens nested within 2 miles of the lek site during the second year of this study, with an average distance from lek of 0.5 mile (Hulet et al. 1986). In Montana, Wallestad and Pyrah (1974) found that 73% of nests were built within 2 miles of the lek, but only one nest occurred within 0.5 mile of the lek site. Because leks sites are used traditionally year after year and represent selection for optimal breeding and nesting habitat, it is crucially important to protect the area surrounding lek sites from impacts. Thus, the prohibition of surface disturbance within 2 miles (minimally) or 3 miles (optimally) of a sage grouse lek provides a supportable starting point for sage grouse conservation.

As part of the Rich County CRM process, we welcome an open science based discussion of the management needs for sage grouse and other wildlife. Here are some concepts to consider relating to buffering that warrent an open discussion. Some development methods, such as directional drilling, that may be appropriate in order to both allow extraction of the resource yet protect the surface habitat within buffers.

In Wyoming, buffers would typically provide year-round protection for only 1.56% of the land area around the lek site (encompassing 5.47 million square feet) that would be protected by the minimum two-mile buffers (encompassing 350.33 million square feet) recommended by experts and 0.69% of the land area around the lek site that would be protected by the three-mile lek buffers (encompassing 788.24 million square feet) recommended by Dr. Clait Braun. Experts and scientists recommend. Furthermore, the Proposed Action would allow roads and wells to be built within 2 miles of sage grouse leks (within sensitive nesting habitat) and within 1 mile of sharp-tailed grouse leks as long as construction occurred outside the breeding/nesting season. This is the very area for which experts have recommended that no oil and gas facilities or infrastructure be built (Connelly et al. 2000).

Under Alternative C in the Atlantic Rim Project, road densities are proposed to be limited to less than 3 miles per square mile, and a maximum of 4 well pads per section would be allowed. The evidence tha this mitigation is adequate has yet to be validated by BLM or in other studies. Holloran (2005) found that well densities greater than 1 well/699 acres were deleterious to sage grouse. Stronger mitigation measures mayl be needed.

The BLM might also consider as a reasonable alternative mitigation measure the closure of roads to vehicle traffic and human activity during sensitive seasons for wildlife (e.g., big game crucial winter and calving ranges, migration corridors, lands within 3 miles of sage grouse leks and 1 mile of sharp-tailed grouse leks, areas within 1 mile of raptor nests or 2 miles of ferruginous hawk nests, prairie dog colonies during non-hibernation periods). This is a feasible alternative, as condensate can be pipelined to less-sensitive habitats for disposal, and well telemetry can obviate the need for "well tripping." Bill Barrett Corporation agreed to close and gate all roads within 2 miles of a sage grouse lek or within 1 mile of a raptor nest site during the

sensitive season for its Big Porcupine CBM project. If Barrett can do this, Anadarko and other Atlantic Rim operators might be able to do the same.

Connelly et al. (2000) provide a review of the many short- and long-term effects of energy development on sage grouse. Aldridge (1998) noted that oil and gas development has contributed to the serious decline of Canadian sage grouse populations, stating,

> the removal of vegetation for well sites, access roads, and associated facilities can fragment and reduce the availability of suitable habitat. Furthermore, human and mechanical disturbance at wells may disrupt breeding activities, and traffic on access roads could cause some fatalities of birds.... Even if sites are reclaimed at a later date, birds may fail to return to previously used habitats.

Currently, only 7 of 31 historic lek complexes remain active in Canada (Braun et al., 2002). For this Canadian population, these researchers have stated, "The future plans for oil and gas developments within the range of sage-grouse are unknown, but expansion is expected. The cumulative impacts of further activities could result in reduction of the Alberta sage-grouse population to non-viable levels."

Coalbed methane development has even greater impacts on sage grouse. According to Braun et al. (2002), "Impacts to sage grouse from CBM development include direct loss of habitats from all production activities along with indirect effects from new power lines and significantly higher amounts of human activity, both during initial development and during production." For leks within 0.25 mile of coal bed methane facilities, significant reductions in males/lek and rate of growth, presence of overhead power lines within 0.25 mile of a lek also depressed sage grouse population growth, and compressor stations within 1 mile of a lek significantly reduced sage grouse numbers (*Ibid.*).

But the definitive study on the impacts of oil and gas development to sage grouse was undertaken by Holloran (2005). This study is attached as Attachment 10 and we incorporate it into these comments by reference. The study considered sage grouse populations in the Pinedale Anticline and Jonah gas fields in Western Wyoming, as well as sage grouse in adjacent areas where development was not occurring. This study reached the following findings:

<u>Impacts to Breeding Males</u>

- Populations of breeding males on leks (sage grouse mating sites) in areas subjected to full-field natural gas development in the Pinedale Anticline and Jonah fields declined by an average of 51 percent from the year prior to development to 2004, compared to only a 3 percent decline at undisturbed leks.

- Males at three leks surrounded by natural gas development declined by 89%; two of the three leks were abandoned entirely within 3 to 4 years of initiation of gas drilling.

- Active drilling within 3.1 miles of a sage grouse lek reduced the number of breeding males that used the lek.

- After drilling and construction had been completed, the presence of producing gas wells within 1.9 miles of a lek site reduced the number of breeding males using the lek.

- As road traffic increased, the number of breeding males on affected leks decreased.

- As well densities increased, the number of breeding males on affected leks decreased.

- Well densities of 1 or more wells per square mile reduced the number of males at affected leks.

Impacts to Nesting Females

- Some 64% of sage grouse nested within 3.1 miles of a lek site.

- Females showed strong fidelity to their nesting areas, and continued to nest in affected areas even after roads and wells were developed nearby. Older females remained in affected areas, while yearling females departed from gas fields.

- Overall, females strongly avoided nesting in areas of high well density.

- There was a 21 percent decline in the population of nesting females relative to undisturbed females over the 5 years of the study.

- Females nesting in developed areas had a significantly lower survival rate than female grouse in undeveloped areas. Although nest success rates were higher in developed areas, this increase was not sufficient to overcome the lowered female survival rates, resulting in an overall 21 percent decline in sage grouse population growth in developed gas fields relative to undeveloped areas.

- The study predicted that sage grouse populations would become extinct in the Pinedale Anticline and Jonah Fields within 19 years if current population trends continue. (Both of these fields are in the early stages of development. As impacts to sage grouse habitat become progressively worse with the planned increase in gas drilling, the population declines could become steeper in the future).

- Population reductions likely result from a combination of dispersal away from gas fields and increased mortality rates for birds affected by development.

- The author's findings suggest that "current development stipulations are inadequate to maintain greater sage-grouse breeding populations in natural gas fields" (page 57).

The findings of this study make clear that projects like the Atlantic Rim CBM project, under standard stipulations like those in the Proposed Action and Alternative B, are likely to be insufficient to prevent significant impacts to the sage grouse. It is important to note that the data for this study were gathered from 2000 to 2004, when the Pinedale Anticline Field had a similar or lower density compared to the Atlantic Rim CBM project under all action alternatives.

Importantly, because this study found that well densities greater than 1 well/699 acres negatively impacted sage grouse lek populations, proposed well densities of 80 to 160 acres spacing should be expected to have heavy impacts on sage grouse populations. Because the presence of production wells (post-drilling) within 1.9 miles of a sage grouse lek had negative effects on breeding populations, and because all alternatives will allow the siting of wells within 1.9 miles of lek sites, heavy impacts to breeding populations at impacted lek sites would be expected. However, because BLM has not planned the location of wells and roads, the agency will not be able to analyze the direct and cumulative impacts of the project on sage grouse, either on a project-wide basis or lek by lek.

VI.CONCLUSION AND REQUEST FOR RELIEF

Leasing creates a contract that can limit future management options. The time prior to issueing a lease is the best time to analyze and define required stipulations. For the foregoing reasons the Parties request that the protested not be offered for sale at this time. Prior to offering these areas for lease, we ask that BLM work with the Rich County CRM and other organizations to develop mineral leasing practices and stipulations that will ensure that the economic and ecological goals continue to be met.

Cited literature

Autenreith, R. 1985. Sage grouse life history and habitat management.
effects: A symposium. Boise, ID: Bureau of Land Management.

Benson, L.A., C.E. Braun, and W.C. Leininger. 1991. Proc. Issues and Technology in the Management of Impacted Wildlife, Thorne Ecol. Inst. 5:97-104.

Connelly, J.W., M.A. Schroeder, A.R. Sands, and C.E. Braun. 2000. Guidelines to manage sage grouse populations and their habitats. Wildl. Soc. Bull. 28:967-985.

Dunn, P.O., and C.E. Braun. 1986. Summer habitat use by adult female and juvenile sage grouse. J. Wildl. Manage. 50:228-235.

Holloran, M.J. 1999. Sage grouse (*Centrocercus urophasianus*) seasonal habitat use near Casper, Wyoming. M.S. Thesis, Univ. of Wyoming, 130 pp.

Hulet, B.V., J.T. Flinders, J.S. Green, and R.B. Murray. 1986. Seasonal movements and habitat selection of sage grouse in southern Idaho. Pp. 168-175 in Proceedings--Symposium on the biology of *Artemesia* and *Chrysothamnus*, USDA Gen. Tech. Rept. INT-200.

Holloran, Mathew J. 2005. Greater sage-grouse (Centrocercus urophasianus) population response to natural gas field developement in western Wyoming, PhD Dissertation, University of Wyoming.

Klott, J.H. 1987. Use of habitat by sympatrically occurring sage grouse and sharp-tailed grouse with broods. M.S. Thesis, Univ. of Wyoming, 82 pp.

Wallestad, R., and D. Pyrah. 1974. Movement and nesting of sage grouse hens in Montana. J. Wildl. Manage. 38:630-633.

Wallestad, R., and P. Schladweiler. 1974. Breeding season movements and habitat selection of male sage grouse. J. Wildl. Manage. 38:634-637.

Respectfully submitted,

For the parties listed earlier
James Catlin, PhD
Wild Utah Project

The Salt Lake Field Office parcels of concern are as follows:

1. UT0506-003
2. UT0506-004
3. UT0506-005
4. UT0506-006
5. UT0506-010