



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155  
<http://www.blm.gov>

IN REPLY REFER TO:  
3100  
(UT-922)

CERTIFIED MAIL – Return Receipt Requested

September 21, 2007

## DECISION

Center for Native Ecosystems : Protest of the Inclusion of Certain  
Jacob Smith, Executive Director : Parcels in the November 21, 2006  
1536 Wynkoop, Suite 302 : Competitive Oil and Gas Lease Sale  
Denver, Colorado 80202

### Protest Granted in Part

On October 6, 2006, the Bureau of Land Management (BLM) provided notice that 280 parcels (368,088 acres) of land would be offered in a competitive oil and gas lease sale on November 21, 2006. The notice also indicated that the protest period for the lease sale would end November 6, 2006. By letter received by BLM on November 6, 2006, the Center for Native Ecosystems (CNE) protested the inclusion of the following 71 parcels of land located on public lands administered by the BLM in the Salt Lake, Price, Vernal and Moab Field Offices (FOs). These parcels are:

<b>Salt Lake FO:</b>	UT1106-112	UT1106-131	
<b>Price FO:</b>	UT1106-132	UT1106-161	UT1106-195
	UT1106-133	UT1106-163	UT1106-196
	UT1106-136	UT1106-167	UT1106-202
	UT1106-151	UT1106-178	UT1106-203
	UT1106-153	UT1106-180	UT1106-235
	UT1106-157	UT1106-183	UT1106-236
	UT1106-158	UT1106-184	UT1106-237
	UT1106-159	UT1106-185	UT1106-239
	UT1106-160	UT1106-193	
<b>Vernal FO:</b>	UT1106-003	UT1106-257	UT1106-292
	UT1106-170	UT1106-261	UT1106-293
	UT1106-171	UT1106-267	UT1106-297
	UT1106-172	UT1106-269	UT1106-300

UT1106-175	UT1106-272	UT1106-307
UT1106-176	UT1106-273	UT1106-323
UT1106-177	UT1106-274	UT1106-326
UT1106-247	UT1106-275	UT1106-327
UT1106-252	UT1106-281	UT1106-328
UT1106-254	UT1106-282	UT1106-329
UT1106-256	UT1106-283	

<b>Moab FO:</b>	UT1106-276	UT1106-331
	UT1106-309	UT1106-332
	UT1106-311	UT1106-333
	UT1106-314	UT1106-334
	UT1106-316	UT1106-335
	UT1106-330	

BLM deferred leasing on parcels UT1106-157 through UT1106-161, UT1106-163, UT1106-239, UT1106-274, UT1106-275, and UT1106-309 by errata notices dated November 6, 2006 and November 14, 2006. Parcel UT1106-261 received a bid offer at the November 2006 lease sale, but the offer was later rejected and the parcel UT1106-061 was removed from the sale list. Consequently, CNE's protest as to parcels UT1106-157 through UT1106-161, UT1106-163, UT1106-239, UT1106-261, UT1106-274, UT1106-275, UT1106-309 is denied as moot. Parcel UT1106-327 was split into two parcels, UT1106-327A and UT1106-327B, by errata notice dated November 6, 2006. A decision issued by this office on September 21, 2007; thus this response addresses the two parcels that were established from the original parcel UT1106-327 protested by CNE. Of the 61 remaining parcels offered in the November 2006 lease sale, this decision addresses the 27 parcels identified below. CNE's protest of the remaining 34 parcels will be addressed at a later date.

<b>Salt Lake FO:</b>	UT1106-112	UT1106-131
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<b>Price FO:</b>	UT1106-151	UT1106-185
	UT1106-178	UT1106-202
	UT1106-183	UT1106-203
	UT1106-184	

<b>Vernal FO:</b>	UT1106-170	UT1106-247	UT1106-307
	UT1106-171	UT1106-254	UT1106-327A
	UT1106-172	UT1106-257	UT1106-327B
	UT1106-175	UT1106-267	
	UT1106-176	UT1106-269	
	UT1106-177	UT1106-283	

<b>Moab FO:</b>	UT1106-311
	UT1106-314
	UT1106-330

### General Allegations

The first three pages of CNE's November 6, 2006 protest letter lists the parcels CNE is protesting. After each identified parcel, CNE provides the ostensible ground for the

protest. For example, for the 27 parcels at issue in this decision, the protest letter identifies “Heart of the West Conservation Plan Corridor,” “Heart of the West Conservation Plan Core,” “Heart of the West Conservation Plan Duchesne Core,” or “Heart of the West Conservation Plan Book Cliffs Core” as the grounds for protest. However, after listing the parcels and grounds for protest for each parcel, the next 20 pages of the protest letter present myriad other grounds for protest and citations to information that are not specific and may or may not apply to any one parcel. For example, CNE makes general allegations regarding land use plan revisions, nominated Areas of Critical Environmental Concern, purported “new information” related to the white-tailed prairie dog, coal bed methane, sensitive species, notices and stipulations, and the National Historic Preservation Act. Other than the list of parcels and grounds for protest presented on the first three pages, the protest letter makes no attempt to explain how the general allegations may apply to any of the protested parcels.<sup>1</sup>

Apparently, CNE intends its general allegations to apply only to the extent specified in the list of parcels and associated grounds for protest. However, to the extent that CNE intends to raise the general allegations as to the 27 parcels at issue in this decision, CNE fails to provide any rationale explaining how the allegations relate to the parcels. Consequently, CNE’s allegations are conclusory and unsupported by specific facts,<sup>2</sup> and its protest is dismissed as to the general allegations. (BLM addresses below CNE’s allegation regarding the “Heart of the West Conservation Plan”). BLM is under no obligation, as a matter of law or policy, to sort through a protestant’s laundry-list of alleged errors and to divine which the protestant intended to invoke for a particular parcel and then to determine how it may apply. This would unreasonably divert the time and resources that BLM otherwise needs to manage the public lands as mandated by Congress.

I note that CNE has often and repeatedly taken advantage of BLM’s protest procedure as well as the administrative appeal process before the Interior Board of Land Appeals. The protest letter recites that CNE “has a longstanding record of involvement in management decisions and public participation opportunities on public lands” and that its “mission” includes participating in “administrative processes” and “legal actions.” (Page 3). Consequently, CNE should be well aware of its responsibilities as a protestant.

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

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<sup>1</sup> The general allegations in CNE’s November 6, 2006 protest letter appear to be largely boilerplate used in other protests CNE has made to BLM.

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

Failure to comply with any of the foregoing may result in the summary dismissal of the protest.

### **Heart of the West Wildlands Network Design**

In 2004, the Wild Utah Project prepared a document entitled the “Heart of the West Wildlands Network Design Area.” CNE’s protest lists 27 parcels in the Salt Lake, Price, Vernal and Moab FOs within areas identified as Heart of the West Conservation Plan Corridor, Heart of the West Conservation Plan Core, Heart of the West Conservation Plan Duchesne Core or Heart of the West Conservation Plan Book Cliffs Core, and asserts that this network design presents significant new information that has not been evaluated in previous NEPA documents and thus requires a supplemental EIS.

The Heart of the West Wildlands Network Design Area report provides general and conclusive statements that merely describe the area. CNE does not show that BLM has failed to examine impacts from the subject parcels or how the purported new information would change the analysis of environmental impact reflected in the current record. The ecological nature of the character of the parcels did not change or become significant new information simply by the designation of the Heart of the West Wildlands Network Design Area by an interest group. Under 43 U.S.C. § 1732(a), BLM must manage public lands in accordance with the applicable land use plan, not in accordance with a document created by an interest group. For these reasons, the protest is denied on this issue.

### **Conclusion**

For the reasons discussed above, the BLM denies CNE’s protest for parcels UT1106-112, UT1106-131, UT1106-151, UT1106-170 through UT1106-172, UT1106-175 through UT1106-178, UT1106-183 through UT1106-185, UT1106-202, UT1106-203, UT1106-247, UT1106-254, UT1106-257, UT1106-267, UT1106-269, UT1106-283, UT1106-307, UT1106-311, UT1106-314, UT1106-327A, UT1106-327B, and UT1106-330. BLM has received offers on all of these parcels and will issue leases for these parcels subsequent to issuing this decision<sup>3</sup>.

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

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

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<sup>3</sup> Parcels UT1106-183, UT1106-184, and UT1106-203 are the subject of another protest. Depending on the resolution of this protest, the BLM will issue or not issue the subject lease.

## Standards for Obtaining a Stay

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

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

Copies of the notice of appeal, petition for stay, and statement of reasons also must be submitted to each party named in this decision and to the Office of the Solicitor, Intermountain Region, 125 South State Street, Suite 6201, Salt Lake City, Utah 84138, at the same time the original documents are filed in this office. You will find attached a list of those parties who purchased the subject parcels at the November 2006 sale and therefore must be served with a copy of any notice of appeal, petition for stay, and statement of reasons.

/s/ Jeff Rawson

Selma Sierra  
State Director

### Enclosures

- Appendix 1. Form 1842-1 (2pp)
- Appendix 2. List of purchasers (1p)

cc: List of purchasers (13)

Office of the Solicitor, 125 So. State St., Suite 6201, Salt Lake City, UT 84138

List of Purchasers for November 2006  
CNE Protested Parcels

Lone Tree Energy & Assoc.  
950 17<sup>th</sup> Street, Suite 2000-A  
Denver, CO 80202

Anderson Exploration  
P. O. Box 17397  
Salt Lake City, UT 84117

Retamco Operating  
3301 Stonewall Ln  
Billings, MT 59102

Samuel Butler III  
1660 Lincoln Street, Suite 3100  
Denver, CO 80264

SWEPI LP  
P. O. Box 576  
Houston, TX 77001

Western Energy Resources  
1 City Place  
St. Louis, MO 63141

Turner Petroleum Land Services  
8438 South 1275 East  
Sandy, UT 84094

Bearcreek-Aberdeen, LLC  
1200 17<sup>th</sup> Street, Ste. 970  
Denver, CO 80202

Newfield Production Co.  
1401 17<sup>th</sup> Street, #1000  
Denver, CO 80202

Duke Company  
2825 East Cottonwood, Ste. 500  
Salt Lake City, UT 84121

William P. Harris  
P.O. Box 47  
Amarillo, TX 7910

The Houston Exploration Company  
1100 Louisiana, #2000  
Houston, TX 77002

Enduring Resources, LLC  
475 17<sup>th</sup> Street, Ste. 1500  
Denver, CO 80202

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