



# 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)

September 21, 2007

CERTIFIED MAIL – Return Receipt Requested

### DECISION

Southern Utah Wilderness Alliance	:	Protest to the Inclusion of 48
425 East 100 South	:	Parcels in the August 21, 2007
Salt Lake City, Utah 84111	:	Competitive Oil and Gas Lease Sale
	:	

### Protest Denied

On July 6, 2007, the Bureau of Land Management (BLM) provided notice that 81 parcels (141,264.85 acres) of land would be offered in a competitive oil and gas lease sale on August 21, 2007. The notice also indicated that the protest period for the lease sale would end on August 6, 2007. In a letter received by BLM on August 6, 2007, the Southern Utah Wilderness Alliance (SUWA) protested the inclusion of 48 parcels.<sup>1</sup> All of the protested parcels are on public lands administered by the BLM Fillmore Field Office.

The 48 protested parcels are as follows:

UT0807-006	UT0807-056	UTU0807-070	UT0807-082
UT0807-007	UT0807-057	UTU0807-071	UT0807-083
UT0807-013	UT0807-058	UTU0807-072	UT0807-084
UT0807-017	UT0807-059	UTU0807-073	UT0807-085
UT0807-036	UT0807-060	UTU0807-074	UT0807-086
UT0807-037	UT0807-061	UTU0807-075	UT0807-087
UT0807-050	UT0807-062	UTU0807-076	UT0807-088
UT0807-051	UT0807-063	UTU0807-077	UT0807-095
UT0807-052	UT0807-066	UTU0807-078	UT0807-096
UT0807-053	UT0807-067	UTU0807-079	UT0807-097
UT0807-054	UT0807-068	UTU0807-080	UT0807-098
UT0807-055	UT0807-069	UTU0807-081	UT0807-099

<sup>1</sup> The protest letter states that SUWA is protesting 50 parcels, but SUWA's list of protested parcels includes two parcels, UT0807-078 and UT0807-083, that are shown twice.

By errata notice dated August 13, 2007, BLM deferred offering for lease 16 of the 48 parcels SUWA protested. The parcels deferred are UT0807-006, UT0807-007, UT0807-013, UT0807-036, UT0807-037, UT0807-078, UT08070-079, UT08070-080, UT0807-082, UT0807-0083, UT0807-086, UT0807-095, UT0807-096, UT080-097, UT0807-098, and UT0807-099. Consequently, SUWA's protest as to these parcels is denied as moot.

For all but one of the 32 remaining parcels,<sup>2</sup> SUWA's sole allegation of error is that BLM failed "to take a hard look at new information and new circumstances that have come to light since BLM finalized the House Range Resource Area Resource Management Plan (RMP) and subsequent oil and gas EA." SUWA contends that the "new information" is "Utah State University GAP Data" [sic] and "Utah Division of Wildlife Resources data" that "predict" the existence of habitat on the parcels for various species of birds and mammals, which SUWA subsequently lists. SUWA does not provide, cite, or otherwise identify the "GAP" or Utah Division of Wildlife Resources data that it asserts is "new information," nor does SUWA specify which parcels may contain habitat for which species.

SUWA fails to explain how its general allegation of "new information" regarding the list of species applies to any specific parcel, why the environmental analyses on which BLM relied are not adequate with respect to these species, or to take into account the various lease notices and stipulations dealing with wildlife attached to the parcels. SUWA also fails to point to any facts in the record before BLM, or to present any evidence to support its allegation. Consequently, to the extent that SUWA's protest to the 31 parcels is based on alleged "new information," its protest is dismissed. 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).

BLM is under no obligation, as a matter of law or policy, to sort through a protestant's list of protested parcels and conclusory allegations and to determine which parcel is subject to which allegation, and then to examine the entire record to assess whether the allegation may be supported by facts. This would unreasonably divert the time and resources that BLM otherwise needs to manage the public lands as mandated by Congress. This is particularly true where the protestant, as is the case here, 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, and is represented by experienced legal counsel.

For BLM to have a reasonable basis to consider future protests, SUWA 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 specific reference to documents in the record or competent evidence, and a protest may not merely incorporate by reference arguments or factual information provided in a previous protest.

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<sup>2</sup> The exception is parcel UT0807-017, which SUWA alleges was offered in violation of the governing land use plan. This argument is addressed below.

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

With respect to the remaining parcel, UT0807-017, SUWA contends that BLM's offer to lease the parcel is inconsistent with the House Range Resource Area RMP. As an initial matter, this contention is subject to summary rejection because SUWA fails to identify which lease category prescription applies to the parcel at issue or to point to something in the record or provide other competent evidence showing that the parcel is actually in the area for which the prescription applies. In any event, by errata notice dated August 13, 2007, BLM notified potential bidders that the lease for the parcel would be subject in part to a no-surface occupancy stipulation, consistent with the RMP, resolving SUWA's apparent complaint. Consequently, SUWA's protest to UT0807-017 is denied as moot.

### **Conclusion**

For the reasons discussed above, BLM denies SUWA's protest to parcels offered at the August 21, 2007 oil and gas lease sale. BLM will issue leases for the parcels subsequent to issuing this decision.

This decision may be appealed to the Interior Board of Land Appeals (Board), in accordance with the regulations contained in 43 CFR Part 4, and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days of 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 (pursuant to regulation 43 CFR § 4.21; 58 FR 4939, January 19, 1993) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay also must be submitted to each party named in this decision and to the Interior Board of Land Appeals Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy St., Suite 300, Arlington, VA 22203 at the same time they are submitted to this office. Copies of the notice of appeal, petition for stay and any supporting documentation also must be filed with the Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180, not later than 15 days after filing the documents with the authorized officer and/or IBLA (see 43 CFR § 4.413). If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

### **Standards for Obtaining a Stay**

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

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

Copies of the notice of appeal, petition for stay, and statement of reasons also must be submitted to each party named in this decision and to the Office of the Regional Solicitor, Intermountain Region, 125 South State Street, Suite 6201, Salt Lake City, Utah 84138, at the same time the original documents are filed in this office. You will find attached a list of those parties who purchased the subject parcels at the August 2007 sale and therefore must be served with a copy of any notice of appeal, petition for stay, and statement of reasons.

/s/ Jeff Rawson

for Selma Sierra  
State Director

Enclosures

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

cc: List of purchasers (5)  
Office of the Solicitor, 125 So. State St., #6201, SLC, UT 84138

bcc: WO-310, 501LS  
Fillmore FO  
Reading Files, UT-910, UT-930, UT-922, UT-952  
Lease Files

## List of Purchasers for August 2007 SUWA Protested Parcels

Avalanche Energy, Inc.  
2403 Tenderfoot Dr.  
Larkspur, CO 80118

Bro Energy, LLC  
4824 SO. Highland Circle #205  
Salt Lake City, UT 84119

International Petroleum, LLC  
4824 SO. Highland Circle #205  
Salt Lake City, UT 84119

Pioneer Oil & Gas  
1206 W SO Jordan Pkwy # B  
S. Jordan, UT 84095-4551

Tidewater Oil & Gas  
1645 Court PL # 225  
Denver, CO 80202