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December 4, 2008

Kent Hoffman
Deputy State Director
Division of Lands and Minerals
Bureau of Land Management
P.O. Box 45155
Salt Lake City, UT 84145-0155
Fax: (801) 539-4237

Re: Protest for December, 2008 Utah BLM Oil and Gas Lease Sale

Specific protests to Utah parcel number: **UTU86887** (UT1108-159), **UTU86892** (UT1108-161), **UTU86893** (UT1108-162), **UTU86894** (UT1108-163), **UTU86899** (UT1108-164), **UTU86900** (UT1108-165), **UTU86901** (UT1108-166), **UTU86902** (UT1108-167), **UTU86903** (UT1108-168), **UTU86904** (UT1108-169), **UTU86905** (UT1108-170), **UTU86906** (UT1108-171), **UTU86907** (UT1108-172), **UTU86908** (UT1108-173), **UTU86909** (UT1108-174), **UTU 86910** (UT1108-175), **UTU86911** (UT1108-176), **UTU86912** (UT1108-177), **UTU86913** (UT1108-177A), **UTU86914** (UT1108-178), **UTU86915** (UT1108-179), **UTU86916** (UT1108-180), **UTU86917** (UT1108-181), **UTU86918** (UT1108-182), **UTU86919** (UT1108-183), **UTU86920** (UT1108-184), **UTU86921** (UT1108-185), **UTU86922** (UT1108-186), **UTU86923** (UT1108-187), **UTU86924** (UT1108-189), **UTU86925** (UT1108-190), **UTU86926** (UT1108-191), **UTU86927** (UT1108-192), **UTU86928** (UT1108-193), **UTU86929** (UT1108-194), **UTU86930** (UT1108-196), **UTU86931** (UT1108-197), **UTU86932** (UT1108-198), **UTU86933** (UT1108-199), **UTU86934** (UT1108-200), **UTU86935** (UT1108-201), **UTU86936** (UT1108-202), **UTU86937** (UT1108-203), **UTU86938** (UT1108-204), **UTU86939** (UT1108-205), **UTU86940** (UT1108-206), **UTU86941** (UT1108-207), **UTU86942** (UT1108-208), **UTU86954** (UT1108-209), **UTU86955** (UT1108-210), **UTU86956** (UT1108-211), **UTU86957** (UT1108-212), **UTU86958** (UT1108-213), **UTU86959** (UT1108-214), **UTU86960** (UT1108-215), **UTU86961** (UT1108-216), **UTU86962** (UT1108-217), **UTU86963** (UT1108-218), **UTU86964** (UT1108-219), **UTU86965** (UT1108-221), **UTU86966** (UT1108-222), **UTU86967** (UT1108-223), **UTU86968** (UT1108-224), **UTU86969** (UT1108-225), **UTU86985** (UT1108-242), **UTU86986** (UT1108-243), **UTU86987** (UT1108-244), **UTU87007** (UT1108-271), **UTU87026** (UT1108-296), **UTU87027** (UT1108-314)

Dear Deputy Director Hoffman:

On behalf of the undersigned, please accept this protest on the above oil and gas lease parcels in Grand and San Juan County, Utah. Red Rock Forests (RRF), located in Moab, Utah focuses on the health of the Mountains and surrounding landscape of Utah.

Red Rock Forest's mission is to protect the long-term health and viability of these high elevation forests and surrounding lands as they provide critical summer forage for wildlife and support a rich diversity of plant life.

We have reviewed the recently released Moab Resource Management Plan in its entirety. The Plan does not include a discussion or analysis regarding leasing and development of oil and gas in Ruby Ranch, the Upper or Lower Labyrinth, along the 1-70 Corridor, along the Book Cliffs, Duma Point, Ten Mile Canyon, Mineral Point, along the 191 Corridor, Bartlett Wash, Tusher Canyon, Courthouse Pasture, Thompson Springs, along 'The Daily' stretch of the Colorado River; along the boundary of Arches National Park, Yellow Cat Road, Lost Springs Canyon, Amasa Back, Hatch Point, Needles Overlook, Sand Flats Recreation Area, Porcupine Rim and Matt Martin Point, along the Anticline Overlook road, Jackson's Hole, Hell Roaring Canyon, Spruce Canyon, Cottonwood Wash, Coal Canyon, Nash Wash, Dome Plateau, along the Colorado River corridor, Dry Mesa, Cache Valley, Grand Valley, Kirks Basin or subsurface minerals under the City of Moab's sole source aquifer, golf course, and residential and private property.

The Resource Management Plan does not include a site-specific analysis that addresses the impacts of oil and gas development in the areas listed above included in lease sale parcels referenced at the beginning of this letter. BLM must conduct site-specific analysis of the impacts to these areas and the impacts to existing and future uses of these areas BEFORE making these areas available for oil and gas leasing.

We are concerned that the leasing of these parcels would convey a right to explore for and develop gas and/or oil reserves to the lessee that, when exercised, will threaten the health of the watershed, air and water quality, scenic quality, as well as the rural economy which thrives on a nationally and internationally-renowned and unique vistas, amenities and recreational opportunities.

RRF represents 400 members nationally that recreate in areas covered by leases in this lease sale by walking, hiking, biking, boating, engaging in photography, quiet, solitude and enjoyment of the landscape. RRF members visit many of these areas as often as daily to occasionally when they are visiting the area. Sale of these leases will impact their enjoyment of these areas and for our local members, their quality of life in the Moab area.

We are concerned about the health and safety of residents and visitors to Grand and San Juan County in the event that these parcels are included in this lease sale. We

are also concerned about environmental impacts to wildlife, to air and water quality, and to dark night skies, as presented in more detail below.

Specifically, we are concerned about the impacts that future development of these leases would seriously impact the City of Moab's and the Town of Castle Valley's water supply, and request that BLM not risk the water supply of our towns with speculative oil and gas development.

BLM acknowledges that the potential for oil and gas production is low in these areas, so there is no reason to allow permanent scars of access roads and development to damage the landscape that provide a high quality of life, supports a thriving rural economy to residents of Grand and San Juan County and that visitors from around the world come to enjoy.

The grounds of this Protest are, as follows:

A. Leasing the Contested Parcels Violates NEPA

1. Inadequate Pre-Leasing NEPA Analysis: Failure to Adequately Consider the No-Leasing Alternative

NEPA requires that the BLM prepare a pre-leasing NEPA document that fully considers and analyzes the no-leasing alternative before the agency engages in an "irretrievable" commitment of resources, i.e., the sale of non-surface occupancy oil and gas leases. See Southern Utah Wilderness Alliance v. Norton, 457 F. Supp. 2d 1253, 1262-1264 (D. Utah 2006); Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228-30 (9th Cir. 1988) (requiring full analysis of no-leasing alternative even if EIS not required); Montana Wilderness Ass'n. v. Fry, 310 F.Supp. 2d 1127, 1145-46 (D. Mont. 2004); Southern Utah Wilderness Alliance, 164 IBLA 118, 124 (2004) (quoting Pennaco Energy, Inc. v. U.S. Dep't of the Interior, 377 F.3d 1147, 1162 (10th Cir.2004)). Importantly, BLM's pre-leasing analysis must be contained in its already completed NEPA analyses because, as the Interior Board of Land Appeals recognized in Southern Utah Wilderness Alliance leases are not themselves documents that may be tied to NEPA documents, but are used to determine the sufficiency of previously issued NEPA documents." 164 IBLA at 123 (citing Pennaco, 377F.3d at 1162).

The Moab DNA states that the 2008 Moab Field Office Resource Management Plan (RMP) adequately addresses leasing for oil and gas programmatically. Moab at 3. Nonetheless neither the DNA, nor the 2008 Moab Resource Management Plan (RMP)

included an analysis of a 'no leasing' alternative, thereby violating the intent of NEPA to provide the decision maker a 'reasonable range of alternatives.'

2. BLM Failed to Take the Required "Hard Look" at Whether Its Existing Analyses Are Valid in Light of Information or Circumstances During the Development of the Moab Resource Management Plan

The BLM was presented with extensive substantive comments during the Resource Management Planning process by the National Park Service, which demonstrated that data collected by NPS shows "a deteriorating trend for ozone, which may reflect more current data than that used for the RMP" (RMP, Response by Resource, p 56). The deteriorating trend for ozone does, in fact, demonstrate that ozone levels are very close to standard thresholds for maintenance of the Class I Airshed designations for Arches and Canyonlands National Parks under the Clean Air Act. As such, by including parcels 224, 225, 223, 222, 221, 219, 243, 218, 217, 244, 216, 243, 242, 215, 214, 199, 198, 190, 189, 191, 192, 193, 194, 197, 196, 186, 183, 185, 186, 189, 183, 184, 181, 182, 174, 173, 172, 170, 176, 171, 168, 167, 166, 162, 166, 161, 163 176, 177, 200, 201, 202, 203, 204, 205, 206, 207, 208, BLM ignored the cumulative impact that the development of oil and/or gas on any or all of these parcels would potentially impact that ozone levels in these Parks, and thus cause the significant deterioration of their Class 1 Airshed designations.

The BLM failed to consider during the RMP process, which is used to justify the adequacy of presenting these parcels for lease, comments presented by the State of Utah Public Lands Policy Coordination, which "encourages the BLM to impose air emission standards as lease conditions and conditions of approval for Applications for Permit to Drill." (RMP, Response, p 56). The BLM's response was provided as "The BLM does not have the responsibility to set air emission standards. That responsibility lies with EPA and the State of Utah. The BLM can only approve actions that meet the National Ambient Air Quality Standards as set by EPA or the State." (RMP, Response, p. 56). By such statements, the data provided by the National Park Service regarding ozone levels would be sufficient and justifiable for the BLM to permanently defer parcels 224, 225, 223, 222, 221, 219, 243, 218, 217, 244, 216, 243, 242, 215, 214, 199, 198, 190, 189, 191, 192, 193, 194, 197, 196, 186, 183, 185, 186, 189, 183, 184, 181, 182, 174, 173, 172, 170, 176, 171, 168, 167, 166, 162, 166, 161, 163 176, 177, 200, 201, 202, 203, 204, 205, 206, 207, 208 because the development of oil and/or gas on any or

all of these parcels would potentially impact that ozone levels in these Parks, and thus cause the significant deterioration of their Class 1 Airshed designations.

In addition, the Acting Regional Director of Region 8 of the Environmental Protection Agency wrote a letter to the BLM on November 25, 2008 in response to this proposed lease sale. The letter specifically states,

“As noted in our recent letters, the lack of air quality analysis when necessary at the Resource Management Plan (RMP) stage of NEPA analysis remains a paramount concern. Our concern stems from the possibility that decision makers may not have enough information to provide appropriate mitigations to ensure National Air Quality Standards (NAAQS) is met without conducting needed analysis. EPA stated its concerns that the qualitative emission comparison conducted in these RMP Final EISs would be insufficient to provide BLM with the necessary information to issue categorical exclusions while still being protective of NAAQS and the air quality related values of the Class 1 areas of Arches and Canyonlands National Parks. Given the potential for categorical exclusions following these new RMP completions, EPA had urged BLM to complete air quality modeling for future projects and to implement specific air quality mitigation measures if needed. Our serious concerns have been reinforced based on present information and new information that has come to our attention since our last correspondence with the Utah State Office, including the following:

- 1) The December lease sale offers public lands for lease immediately adjacent to Arches and Canyonlands National Parks where oil and gas production could adversely affect Class 1 air quality related values.
- 2) Five of the proposed December oil and gas lease parcels are located within or adjacent to the City of Moab's sole source of drinking water supply, which is protected as a Sole Source Aquifer pursuant to EPA's authority under the Safe Drinking Water Act.”

Because the Moab RMP fails to adequately address the impacts of oil and gas development on the Class 1 Airsheds of Arches and Canyonlands National Parks, lease parcels 224, 225, 223, 222, 221, 219, 243, 218, 217, 244, 216, 243, 242, 215, 214, 199, 198, 190, 189, 191, 192, 193, 194, 197, 196, 186, 183, 185, 186, 189, 183, 184, 181, 182, 174, 173, 172, 170, 176, 171, 168, 167, 166, 162, 166, 161, 163, 176, 177, 200, 201, 202, 203, 204, 205, 206, 207, 208 should be withdrawn from the sale.

B. Leasing the Contested Parcels Violates the NHPA

As described below, BLM's decision to sell and issue leases for the 70 parcels at issue in this protest violates § 106 of the NHPA. 16U.S.C. § 470(f) and its implementing regulations. 36 C.F.R. §§ 800 et seq.

As Utah BLM has recognized for some time, the sale of an oil and gas lease is

the point of "irreversible and irretrievable" commitment and is therefore an "undertaking" under the NHPA. See BLM Manual H-1624-1. Planning for Fluid Mineral Resources. Chapter I(B)(2); see also 36 C.F. R. § 800.16(y); Montana Wilderness Ass'n v Fry, 310 F. Supp. 2d 1127. 1152-53 (D. Mont. 2004); Southern Utah Wilderness Alliance, 16 IBLA-at 21-28. The NHPA's implementing regulations further confirm that the "[t]ransfer, lease or sale, of property out of federal ownership and control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance" constitutes an "adverse effect" on historic properties." Id. § 800.5(a)(2)(vii) (emphasis added). See 65 Fed. Reg. 77689, 77720 (Dec. 12. 2000) (Protection of Historic Properties - Final Rule; Revision of Current Regulations) (discussing intent of § 800.5(a)(2)(iii)).

1. Failure to Involve the Public

BLM has violated the NHPA by failing to adequately consult with members of the interested public, such as RRF, regarding the effect of leasing all the protested parcels. Such consultation must take place before the BLM makes an irreversible and irretrievable commitment of resources - in other words, before the December 2008 lease sale. See Southern Utah Wilderness Alliance, 164 IBLA 1 (2004). The NHPA requires BLM to "determine and document the area of potential effects, as defined in [36 C.F.R.] § 800.16(d)," identify historic properties; and to affirmatively seek out information from the SHPO, Native American tribes, consulting parties, and other individuals and organizations likely to have information or concerns about the undertaking's potential effects on historic Properties, 36 C.F.R. § 800.4(a). See Southern Utah Wilderness Alliance, 164 IBLA at 23-24 (quoting Montana Wilderness Ass'n, 310 F. Supp. 2d at 1152-53). The NHPA further states that BLM shall utilize the information gathered from the source listed above and in consultation with at a minimum the SHPO, Native American tribes, and consulting parties "identify historic properties within the area of potential affect." Id. § 800.4(b). See id. § 800.04(b)(t)(discussing the "level of effort" required in the identification process as a "reasonable and good faith effort to carry out appropriate identification efforts").

The NHPA's requires -- and the Protocol repeats - that the BLM "seek information" from organizations like RRF and Native American tribes "likely to have knowledge of or concerns with, historic properties in the area." 36 C.F.R. §800.4(a)(3)(emphasis added). See Protocol § IV.C ("BLM will seek and consider the

views of the public when carving out the actions under terms" of this Protocol.)

As BLM's DNA form plainly states, neither groups like RRF nor Native American Tribes were consulted as to identifying specific parcels for consideration in this lease sale. The DNA states, "Native American consultation with Tribes will be completed prior to the December lease sale." DNA at 4. Issuing a Sale Notice on November 4th and completing a DNA, conveniently provided to the public with no date of completion, without first consulting Native American tribes precludes the ability of a timely and sufficient process for government-to-government consultation, nor any opportunity for the public to participate in the identification of known eligible or potentially eligible historic properties. The publication of the Draft EIS inviting public comment provided insufficient detail to allow any member of the public or Native American tribe to identify specific parcels that might be identified as known to be eligibly or potentially eligible properties that might be subject to oil and gas leasing. Permitting public participation only at the "protest stage," or arguing that the time period for seeking public input ended when BLM completed its resource management plans, is not equivalent to encouraging participation in an open NEPA process, and BLM should withdraw the 70 parcels that are the subject of this protest.

2. Failure to Adequately Consult with Native Americans

As in the recent decision from the IBLA - Southern Utah Wilderness Alliance, IBLA 2004-124, the record here does not demonstrate that the Moab Field office adequately consulted with the Native American tribes. See Southern Utah Wilderness Alliance, IBLA 2004-124 at 12 (holding that BLM failed to meaningfully consult with Native American tribes). In short, the form letters that these offices routinely send to various tribes suffers from the same flaw that the IBLA recently held to be fatal to BLM's consultation efforts. Thus, BLM must defer leasing the 70 parcels at issue here until the agency fully and adequately consult with Native American tribes.

C. Violations of the Federal Land Management Policy Act

1. Changed Circumstances and a Lack of Public Comment Opportunity

The underlying Resource Management Plans covering the management areas where these leases are located provide a general analysis and leasing decision, however, the analyzed in a supplement to that leasing decision. Because specific lease

parcels have never been analyzed in a NEPA document, this needs to occur before they can be offered for sale.

Up until the sale notice, the public was unaware of the location of specific lease parcels to be sold. Because the public has been unaware as to where specific lease parcels would be sold, identification of specific lease parcels represent changed circumstances upon which the public has not been able to comment or review site-specific NEPA analysis.

The Federal Lands Policy Management Act (FLPMA) requires that BLM “shall allow an opportunity for public involvement and . . . shall establish procedures . . . to give . . . the public adequate notice and an opportunity to comment on and participate in the formulation of . . . programs relating to the management of the public lands.” 43 U.S.C. § 1712(f). While the public had the opportunity to comment on the underlying land use plan, that right has not been made available regarding the specific leases parcels. The BLM has provided no opportunity for public comment on the protested lease parcels prior to this protest, which is essentially an after-the-fact opportunity for involvement, which fails to meet the requirements of FLPMA. As such, the 70 protested lease parcels should not be offered for sale.

2. Failure to Properly Map Lease Parcels

Given the documents provided in the Competitive Lease Sale Notice, it is difficult at best to for the public to understand where the leases are located. On November 6, when a representative of RRF called the BLM for information on where to receive a map of the leased parcels, we were informed that we, and any other member of the public, regardless of where they lived, would have to physically visit the Utah State Office of the BLM to obtain such a map. Follow-up on November 12 with a phone call to the Moab Field Office resulted in a statement that the maps were available on line – when in fact, only two maps were available of parcels offered from the Moab Field Office, showing a fraction of the 70 parcels offered for sale. Follow-up on November 13 with a person visit to the Moab Field Office resulted in being told by the front desk staff that no maps were available to the public. Follow-up with a November 19 Grand County Council meeting where BLM Field Office staff made a presentation to the Council and the public showing maps extracted from the RMP and providing no other maps for review. Follow-up on November 24 with Moab Field Office representatives attending a community meeting on the lease sale where maps were provided of the lease parcels, with no identifying lease

parcel numbers on the maps. Maps with lease parcels and identifying numbers were not made available to the public from the Moab Field Office until December 1st – a mere three days before formal protests were due. As a result, it is extremely difficult for the public to offer meaningful public comment and analysis. We believe that this constitutes a violation of the Federal Onshore Oil and Gas Leasing reform Act (FOOGLRA) that requires: “*Such notice shall include the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. **Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area.***” 30 U.S.C. § 226(f) (emphasis added.).

Certainly in the information age when oil and gas lease sale notices are made available online, appropriate and complete lease sale maps are "practical" need to be included as well. These maps are required to not only show lease parcels to be sold, but also their relation to *existing parcels*. In addition, it would be extremely helpful if the maps provided showed drainages, roads, and other topographical features so that the public can accurately determine what lands and resources they own or up for lease.

3. Lack of Cumulative Impacts Analysis

Rivers, lakes and terrestrial habitat throughout Utah, including those in the watersheds in Grand and San Juan County where the protested parcels are located, have experienced deleterious impacts to the aquatic and terrestrial environment in recent drought years due to low stream flows, increased water temperatures and interruption of wildlife corridors due to development. The BLM needs to conduct an assessment of vulnerable aquatic and terrestrial wildlife species, and natural systems that will be adversely impacted by global climate change. The BLM should manage vulnerable systems and their tributaries to prevent them from experiencing regime shifts brought on by the impacts of climate change and remove other stressors from those systems by thoroughly analyzing cumulative impacts that leasing, and in turn development, authorizes.

4. Inconsistency with the Resource Management Plans

There's a complete inconsistency in how BLM offices are handling the execution of lease sales in the state of Utah in violation of the system for putting federal parcels up for bid as provided in the Mineral Leasing Act of 1920. As required by the Leasing Act

and FLPMA, BLM is authorized to issue lease parcels as provided by applicable Resource Management Plans (RMPs) issued by the agency. The Moab Resource Management Plan, issued in October, is inadequate in its failure to consider information provided by the National Park Service and others on air quality impacts to Class 1 Airsheds; inadequate in consultation with Native American Tribes on historical and cultural sites; inadequate in public participation; inadequate in disclosure of cumulative of impacts; and inadequate in analysis of impacts from development on lands adjacent to parcels designated with NSO stipulations.

The failure of BLM to prepare an adequate RMP illustrates that rather than federal laws, the industry largely drives the leasing program in Utah in which record high prices for natural gas and oil, and diminishing reserves in long-producing basins, drilling companies and other speculators, have mostly convinced the BLM since for bigger, and more lucrative, lease sales such as those in question in this lease sale.

In addition, rather than even attempting to stay out of controversial areas, the lease sales in this case illustrate that the BLM has readily leased parcels in important wildlife habitat and wilderness-quality lands. In fact, over the past seven years, the BLM has leased 17 million acres in the five major oil- and gas-producing states in the Interior West, for about \$500 million. Further, hundreds of thousands of acres of public land in the Interior West will be auctioned off this year.

Moreover, in violation of the Leasing Act and FLPMA, the structure of the process for issuing the protested lease sales is based on the benefits to the oil and gas industry, to the point where the industry is largely making the decisions for the BLM. In relation to the lease sale in question, for example, companies nominate parcels in areas the BLM have set aside even though these are not listed as suitable for leasing in the Moab DNA (parcels 209, 223, 224, 242, 243, 244).

The BLM announces the parcels that will be available at its next quarterly auction, and the companies will place their bids accordingly, paying anywhere from the federal minimum of \$2 an acre to thousands of dollars an acre. The winning bidders get the right to tap the land's energy resources without accurate consideration or analysis of the impacts to resources, sensitive lands, listed species or aquatic habitat.

Further, even though the BLM often says that just because a lease is issued that does not mean a well will actually be drilled, a lease gives oil and gas companies a vested right to develop the lands, making it difficult for the BLM to say no later. And the agency is very susceptible to pressure from industry. It used to be that companies knew

they could not drill in the winter in deer and elk habitat. Now they are pushing to remove this impediment and drill all year round.

Finally, that political pressure rather than compliance with legal mandates is driving this and other BLM leases in Utah is illustrated by the fact that the BLM's aggressive leasing program is directly tied to the current administration which has made energy development the agency's highest priority. A few months after taking office in 2001, George W. Bush issued an executive order directing federal agencies to "expedite energy-related projects." Subsequent memos from the BLM's Washington headquarters to state-level managers reinforced the message, including a 2003 memo instructing state offices to not "unduly restrict access to the public lands for oil and gas development." Any stipulations placed on leases to mitigate impacts on wildlife had to be "the least restrictive necessary to accomplish the desired protection." The following year, the agency told state directors that any time they decided not to issue a lease, they had to provide a letter to the operators interested in the tract, stating the reasons for the BLM's decision.

D. No Surface Occupancy Stipulations Does Not Include Environmental Analysis of Impacts of Drilling Infrastructure and Roads on Adjacent Lands

The BLM has indicated in the Moab DNA for the December 19, 2008 lease sale that a number of the parcels include No Surface Occupancy (NSO) stipulations, which therefore provides sufficient protections of the resources of concern (e.g., air, noise, wildlife habitat, water quality, etc). However, the RMP and the DNA fail to provide an analysis of the impacts that would occur to lands adjacent to these parcels, in terms of surface disturbance with the placement of drilling structures, employee facilities, access via roads by heavy truck traffic, fugitive dust, runoff and sedimentation, and impacts to recreational trails.

1. NSOs Not Protective. Past challenges by the oil and gas industry in court to occupancy restrictions on leased parcels have established in case law that the BLM cannot impose a "no surface occupancy" condition on a lease if it leaves the leaseholder with no practical means of exploring the lease for gas and oil and developing a production platform for any resource discovered. If the leaseholder can locate a drilling and production platform outside the leased "no surface occupancy" parcel, then the "no surface occupancy" stipulation can be enforced. If the leaseholder determines that, in their opinion, it is not feasible for them to explore and produce from a

leased "no surface occupancy" parcel, they can first demand that the BLM remove or modify the stipulation to allow them their legal right of access to their lease. If the BLM does not modify the occupancy stipulation, the leaseholder can go to court, and in the past leaseholders have obtained court orders voiding the no surface occupancy stipulation when the leaseholder convinced the court there was no other way for them to exercise their property right to explore the lease for oil and gas. The oil and gas lease, which the oil company purchases, is a paid-for property right in the eyes of the courts. Stipulations limiting that right of occupancy for exploration to certain seasons in order to protect wildlife reproduction, or to certain parts of the leased lands to avoid visual impacts on a National Park unit nearby, are enforceable because the leaseholder's property right can still be reasonably exercised.

E. The Resource Management Plan Sets Up Conflicting and Competing Management for the Moab Field Office between Energy Development and Recreation

The Moab Resource Management Plan (RMP) includes specific reference to the Colorado Riverway Special Recreation Management Area (SRMA), which includes both the Porcupine Rim Trail and the Amasa Back Trail (referenced to parcels 200, 217, 218, 219, 221 and 223). The existence of this SRMA requires that the listed lease parcels be deferred as access to these parcels will violate the Visual Resource Management Objectives set forth in the RMP.

However, the more critical problem is that once these parcels are leased the BLM has an obligation to provide reasonable access for the lessee to the parcel. Due to significant terrain constraints, the only logical place to build a road to these parcels is in the same narrow corridor as the existing Porcupine Rim and Amasa Back trails. Both trails are Class D county roads, and are used as Moab Jeep Safari routes.

The Porcupine Rim Trail is the showcase trail link for the entire Moab Trail System. The recently funded and partially completely UDOT paved bike path along Highway 128 feeds trail users into Moab and links them to the soon to be constructed Lion's Park Trail Hub as well as the recently completed Pedestrian Bridge across the Colorado River. Funds for this trail system have already been obtained and total over \$10 million. There are currently dozens of Moab businesses that shuttle visitors to the Porcupine Rim Trail, and in addition to several permitted outfitters on the trail. Currently, the Porcupine Rim Trail provides backcountry access to the remote mesa and is the most popular mountain bike trail in Moab. The 2001 Grand County Feasibility Study for

the Colorado River Bike Path estimated that over 26,000 riders per year utilize the trail year round. Some estimates double that use for 2008.

To determine if oil production is possible on these parcels, the road must be improved to allow heavy truck traffic. **This would destroy the recreational assets known as the Porcupine Rim and Amasa Back Trails.** The primitive nature of the routes themselves is the key aspect of the recreation experience.

The deferment of these particular parcels should be considered because the RMP itself creates competing management objectives in 3 ways:

1. Special Recreation Management Area Designation

Both the Porcupine Rim and the Amasa Back parcels are in the Colorado River Special Recreation Management Area, RMP page 86, which states:

“Manage the Colorado Riverway as a Destination SRMA to manage camping, boating , river access, trail, and interpretive facilities in popular areas along or near the Colorado River.”

It goes on to state: “Manage for recreational mechanized use on the main portion of the Porcupine Rim Trail from the junction approximately 1.55 miles east of Little Spring to Highway 128 (with the exception of the Porcupine Rim Trail to Coffee pot Rock which will be managed for motorized use.) Manage the Porcupine Rim Trail to provide only hiking and mountain biking opportunities.”[This mileage includes the precise section where the access road to these parcels would have to be, due to the terrain itself.]”

Deferment should be granted to allow reasonable time for the bureau to analyze various mechanisms, policies, and procedures, which could be employed to resolve this conflict and protect the unique character of these world-class internationally famous trails and meet the requirements of the SRMA designation.

2. VRM Objectives Beyond the Parcel

A further reason to consider deferment concerns the agency’s responsibility to meet and mantain VRM objectives outside the parcels along the access rights of way. If the BLM cannot meet the visual objectives established in the RMP along the route accessing the leased parcels, then those routes would be violating the visual objectives set forth in the RMP.

3. Specific Cases

The proposed RMP/EIS did not specifically address potential impact to the Porcupine Rim Trail for oil and gas access using the trail corridor.

F. Violations of the Endangered Species Act

Congress enacted the ESA in 1973 “to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, and] to provide a program for the conservation of such endangered species and threatened species.” 16 U.S.C. § 1531(b). Section 4 of the ESA directs the Secretary to determine which species should be listed as endangered or threatened. *Id.* at § 1533(a)(1). The Secretary has delegated this duty to the FWS.

An endangered species is “any species which is in danger of extinction throughout all or a significant portion of its range” and a threatened species is one “which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” *Id.* at §§ 1532(6), (20). In deciding whether or not a species qualifies as endangered or threatened, the FWS is required to consider the following five factors: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting its continued existence. *Id.* at § 1533(a)(1).

The parcels that are included in this lease sale include the following USFWS Endangered Species: Southwestern willow flycatcher, California condor; USFWS Threatened Species: Bald Eagle; Jones cycladenia, Mexican Spotted Owl; USFWS Candidate Species: Yellow-billed cuckoo; as well as BLM Sensitive Species: Burrowing owl, Ferruginous hawk, Kit fox, Gunnison Sage Grouse, White-tailed prairie dog, Greater Sage Grouse.

For example, regardless of the ESA’s directive, in issuing the lease parcels, the BLM is ignoring the fact that 178, 179, 201, 202, 203, 205, 206, 207, 208, 209, 216, 242, 243 includes habitat for the Greater sage grouse species. In addition, even though the Department of Interior currently refuses to recognize sage grouse as a species listed under the federal Endangered Species act this ignores recent federal court precedent in Western Watersheds Project v. U.S. Forest Service, Memorandum Opinion, Case No. CV-06-277-E-BLW (December 4, 2007) which faulted the U.S. Fish and Wildlife Service for this oversight in three key areas: (1) use of separate expert panel versus decision

team (which is a process the Service is increasingly using to keep experts out of the actual listing decision); (2) failure to really address habitat threats and inadequacy of regulatory mechanisms, particularly in light of science showing accelerating loss of key habitats which the Service blew off; and (3) improper political meddling by Julie MacDonald.

As a result, due to the presence of sage grouse on several of the parcels and the impacts leasing will have on sage grouse habitat from leasing BLM has failed to adequately assess the impacts to this very imperiled species and the potentially significant impacts to sage grouse as required by NEPA.

G. Violations of the Clean Water Act

In addition, the BLM is subject to the requirements of the Clean Water Act (CWA). 33 U.S.C. §§ 1271–1387. The primary cause of water quality degradation on public lands, including those within the planning area, is pollution from nonpoint sources. The evidence linking road building and maintenance to water quality problems is overwhelming and conclusive.

Section 303 of the CWA requires states to develop water quality standards, which specify the appropriate uses of water bodies and set standards to protect those uses and to place those waters not meeting water quality standards on the 303(d) list. 33 U.S.C. § 1313(d)(1)(A)–(B). States must then calculate total maximum daily loads (TMDLs) for those waters not meeting water quality standards. *Id.* § 1313(d)(1)(C); 40 C.F.R. § 130.7.

Road building and maintenance of existing roads adjacent to water quality limited streams may violate the CWA’s requirement that federal agencies must adhere to state water quality standards to the same extent as nongovernmental entities. 33 U.S.C. § 1323(a) (referring to federal agencies “engaged in any activity resulting, or which may result, in the discharge or runoff of pollutants”).

The requirements of Section 313 are mandatory in nature. The BLM must actually satisfy water quality standards and must actually insure that it does not engage in any activity (including issuance of federal permits) that may result in runoff of pollutants into streams that are currently experiencing impacts to water quality.

According to the RMP, Castle Creek, which is near one portion of parcel 243 is included on the State of Utah’s List of Impaired Waterways of Utah (303d List) (RMP at 128). Similarly, Onion Creek is also listed on the State of Utah’s 303d list, and one

portion of parcel 243 is on Onion Creek, according the maps provided by the BLM. The Onion Creek TMDL specifically “recommends better management of vehicle travel, restricting travel in the stream as much as possible.” As such, by including parcel 243 in the sale list, BLM is failing to meet the standards of the Onion Creek TMDL by allowing development, including access, which would directly impact a water-quality limited stream.

The BLM has failed to adopt a water protection plan to protect water quality as required by the Clean Water Act. The most effective method to accomplish this would be to incorporate a watershed protection plan to maintain and protect the City's/County's water supply and waterworks from injury and water supply from pollution or from activities that may create a hazard to health or water quality or a danger of pollution to the water supply of the City/County. The plan should restrict any activity, or requiring changes in the way the activity or use is performed, within a watershed which creates a substantial risk of pollution or injury to the City's/County's water supply or waterworks and/or the lands from under, or across or through which the water flows or is gathered.

H. Violations of NEPA and the Utah Water Code

Issuance of the lease parcels fails to recognize that Utah and areas of from the Southwest to Southern California are experiencing a drought that shows no sign of ending and which scientists see as a permanent condition due to rising temperatures and dwindling snowpack that comes with climate change. In addition, a 2007 U.S. Geological Survey report found that, by 2050, rising temperatures in the Southwest could rival those of the nation's fabled droughts, including the Dust Bowl of the 1930s. Hotter weather is expected to reduce Colorado River runoff by at least 30 percent during the 21st century.

If the USGS is correct, and if this century's trend persists, average annual flow in the Colorado could fall to 8.2 million acre-feet per year which will negatively impact more than 30 million people and 3.5 million acres of farmland in seven states, 34 tribal nations and Mexico including 10 million residents of Utah, New Mexico, Wyoming and Colorado which make up the northern stretch of the Colorado River and whose water rights are junior, to those in Southern California, Nevada and Arizona.

In violation of NEPA and the Utah Water Code, however, neither the RMPs nor the Moab DNA mention, let alone adequately analyze the impact of the Lease Parcels on diminishing Colorado River flows. Dozens of scientific studies issued since 2004 have

documented the Colorado's decline. The river's annual flow has averaged 11.7 million acre-feet this decade, according to federal records. In 2002, the U.S. Bureau of Reclamation measured only 6.2 million acre-feet passing Lee's Ferry below Glen Canyon Dam, the lowest flow of the decade. Even after this year's above-average precipitation, Lake Powell and Lake Mead combined are at 57 percent capacity.

This is regardless of the fact that experts conclude that a colossal 1 million-acre feet of water is used in the fracking process of each oil and gas well. An acre-foot is about 326,000 gallons, enough to supply one or two western households a year. The issuance of leases on the proposed parcels will, therefore, only add to demand for the Colorado's water from municipalities such as Moab and Castle Valley, other industry giants including existing oil drillers, farmers, fishers, ranchers and recreational users, in addition to wildlife and natural systems. In fact, conservative trend analyses by federal scientists predict the population dependent on the Colorado River will reach at least 38 million people during the coming decade.

Neither do the RMPs or the Moab DNA for this sale consider the fact that, currently, California, with the most senior rights and the largest share of the Colorado under the 1922 Colorado River Compact (Compact) is struggling with a statewide water shortage and already uses all of its Colorado River allocation. The 1922 Colorado River Compact divided the river during a wet cycle that assumed an average annual flow of 16.5 million acre-feet. The Compact requires that 9 million acre-feet per year pass Lee's Ferry below Glen Canyon Dam every year to serve the Lower Basin states and Mexico, which leaves 7.5 million acre-feet for the Upper Basin.

Sixty years ago, recognizing the danger of promising too much, the states amended Upper Basin allocations: Colorado would get 51.75 percent; Utah, 23 percent; Wyoming, 14 percent; and New Mexico, 11.25 percent. More recently, the Upper Basin states acknowledged the drought and agreed that they will base their percentage allotments on 6 million acre-feet per year rather than the 7.5 million acre-feet assumed in the Colorado Compact.

The significance of the BLM's failure to analyze current and up-coming water shortages is the fact that water managers in Utah and the Upper Basin are working to get all of their water rights in use, even as their cities and counties register some of the highest per-capita consumption in the nation. Utahns on average use 291 gallons of water per person per day, including 255 gallons in Salt Lake County; 350 gallons in Washington County and a bloated 430 gallons in Kane County. These figures are

second only to Nevada. Yet, the "Law of the River" under the Compact requires 9 million acre-feet to pass Lee's Ferry on the way to the Lower Basin and Mexico. Under a strict interpretation of the law, the Upper Basin could be left with nothing.

Based on the high demand combined with decreasing flows in the Colorado, the leasing of the parcels as listed at the start of this protest will contribute to Utah's oncoming water crises unless the BLM and other state and federal agencies develop a plan to deal with the shortage.

Utah Code Ann. §73-3-8(1) dictates that applications must be rejected if approval would result in the impairment of existing water rights, or interfere with more beneficial uses of water -- such as stockwatering, municipal and agricultural uses, and providing habitat for state-sensitive fish and wildlife species and other fish and wildlife. When combined with the fact that climate change is increasing the risk of U.S. crop failures, depleting the nation's water resources, and contributing to outbreaks of invasive species and insects, the leasing of these parcels will directly and negatively affect agriculture and livestock in central Utah. Permits for industrial uses that consume large amounts of water like the one in question will exacerbate such impacts.

Further, Utah Code Ann. §73-3-8(1) requires that applications must be rejected if the State Engineer has information or has reason to believe that the appropriation of water will affect public recreation, the natural spring environment, or prove detrimental to the public welfare. The impairment of these River flows in the Green and Colorado Rivers and elsewhere would decrease the value of public recreation in the Southeastern Utah area, by limiting the sources and/or amounts of water flow for recreational users. In addition, these natural flows are critical to the continued existence of native fish and wildlife in this area.

In addition, there is a high probability that water appropriated for use in development of these leases will become polluted by exploration and drilling for oil and/or gas, will likely contaminate ground water resources in the area, and will present a clear threat to public health and welfare in the immediate area. Neither the RMP nor the Moab DNA provides information regarding the impacts of leasing these parcels on the welfare of the community and its environment.

This lack of analysis also omits the fact that once water used in the development of the proposed leases is used in the fracking and other development processing, it will be permanently contaminated and may not be used for any other beneficial use in the future. Based on the fact, therefore, that the oil and gas process will consume the

entirety of the water diverted, the leases would impact water rights held by the senior and other water right holders. Any proposed use of water that has a clear potential to be detrimental to the public welfare should not be approved without supporting evidence to the contrary.

Further, the Utah Code Ann. § 73-3-8(1)(a)(i) requires sufficient unappropriated water for the proposed appropriation. Water needs in Utah are increasingly clashing with reality. The State has already doled out 180,000 rights to tap rivers and dig wells, but there is not enough water to honor them all. For example, the State Engineer, seeing Wayne County perilously close to the deadline, last year approved a farmer's request for transfer of 50,000 acre-feet per year of Fremont River water to the Green River — one of the largest water-right transfers in recent State history. The farmer now can draw on the Green River — about 60 miles upstream from where the right exists — for Wayne County's Fremont River allocation and may irrigate more than 16,000 acres across three counties.

Based upon the language of the Utah Water Code (Code), water resources in Utah must be put to optimum beneficial use, not wasted, protected and conserved for public uses and for wildlife and aquatic life, and protected for existing uses and to ensure supplies for domestic, industrial, agricultural and other beneficial uses. The Code, therefore, clearly focuses on the protection and utilization of Utah's water resources for beneficial purposes. This authority mandates that the production, use, or disposal of large quantities of ground water for fracking and other oil and gas development must serve a statutorily defined beneficial use.

Similarly, the Utah Code Ann. § 73-1-1 requires that any “appropriation must be for some useful and beneficial purpose.” Moreover, the Utah Code Ann. § 73-1-17 requires that the State Engineer may not certify a water right until, among other things, that the water appropriated has been put to a beneficial use...” This requires the applicant to establish that it “can and will put the conditionally appropriated water to beneficial use within a reasonable period of time.” See *e.g. Pagoas Area Water and Sanitation District v. Trout Unlimited (In re Application for Water Rights)*, 170 P.3d 307 (Colo. 200&).

Similarly, the appropriator may not merely possess or waste the water. Water right holders who fail to show continuous beneficial use of the water may lose the water right through abandonment or forfeiture. Utah Rev. State § 73-1-4.

These requirements are intended to ensure that the public's water resource is

available to those who actually need water. David B. Schorr, *Appropriation as Agrarianism: Distributive Justice in the Creation of Property Rights*, 33 *Ecol. L.Q.* 3,9,22 (2005). In Utah, the restriction on speculation and waste is enforced by a recognition that the approval of an application is “only a preliminary step which gives the applicant the authority to proceed and perfect, if possible, the proposed appropriation by actual diversion and application of the water to a beneficial use. See *Rocky Ford Irrigation Co. v. Kents Lake Reservoir Co.*, 104 Utah 202, 212--13, 135 P.2d 108, 113 (1943); *Little v. Greene & Weed Inv.*, 839 P.2d 791, 794 (Utah 1992).

The adoption of the Prior Appropriation Doctrine, by definition, required the appropriator to apply the water to beneficial use, thereby precluding speculative hoarding in hopes of future gain. Neuman, 28 *Envtl. L.* 919, 963-64. “Because actual, beneficial use was required, no one could acquire all of the water and thereby monopolize a scarce and valuable resource. Nor could anyone speculate by holding water without using it, and then make a steep profit by selling to those who need it.” *Id.* at 964. See *High Plains A & M. LLC v. Southeastern Colorado Water Conservancy Dist.*, 120 P.3d 710, 719 n.3 (Colo. 2005).

Based on the fact that the fracking and produced water process associated with the leasing of the parcels in this sale will consume and massive amounts of water that will largely end up in evaporation pond waste facilities, therefore, this use likely constitutes “waste” of water resources. See, *Diamond Cross Properties, LLC, v. State of Montana*, Cause No. DV 05-70, p. 18 (July 14, 2008) (concluding that the quantity of water that is produced in coal bed methane extraction “dwarfs” the amounts of water disposed of as a byproduct of traditional extraction activities).

The Code, therefore, mandates legally acceptable methods for managing the use and disposal of water in relation to the lease parcels including the management of such water recognized beneficial use. In addition, to the extent the Utah Water Resources Division exercises regulatory authority over the production, use or disposal of water used in the fracking or produced water process, it must do so in compliance with the Code and other relevant state and federal statutes that require management of such water for beneficial purposes and proper analysis of environmental impacts. This is based on the fact that the Code is the current statutory scheme in Utah for appropriation of ground water for beneficial uses and, as in this case, provides criteria to be considered when senior water users may be adversely impacted by a proposed water appropriation. In addition, federal statutes such as NEPA require the BLM to analyze the environmental

impact of the use of water resources. Moreover, the significant State interest in the management of enormous quantities of the State's surface and ground water is advanced by appropriate state agency review.

There is little question that the Utah legislature, through oil and gas legislation sought to facilitate the use of water in the oil and gas development process. However, the Utah constitution and relevant statutes require management of surface and ground water for beneficial purposes. Such development of example must recognize the undeniable value of water consumed in by the issuance of the leases and make accommodations for management of such water in beneficial ways. Use and disposal of water used to develop the parcels in a manner without any recognized benefit from the water, therefore, will not pass legal muster. The water resulting from the oil and gas development process represent value to the people, industry and wildlife in Utah. The production and management of each must be balanced against each other so that Utah benefits to the greatest extent possible from both vital resources.

This crisis could express itself in the form of court decision that severely limit the use of water needed by senior water right holders, municipalities, recreationists and others. A federal judge, for example, has ordered California water managers to leave 30 percent more water in the Sacramento-San Joaquin Delta in Northern California to stave off fish kills and keep the massive estuary healthy. More for the environment means less for Los Angeles.

Neither the RMP nor the Moab DNA address the impact of the leasing the noted parcels on potential tribal water claims on the availability of water for the lease parcels in relation to other demands on Utah's water supply. The Utah Division of Water Resources, for example, reports that the state is currently using about 1 million acre-feet of its yearly 1.4 million acre-foot allotment from the Colorado and, a yet to be signed, tribal water settlement with the Navajo Nation would take up about 186,000 acre-feet. Further, new agricultural uses, mostly dedicated to controlling the salinity of the water that flows back to the Colorado, would take 35,000 acre-feet. Municipal and industrial uses along the river corridor would account for 5,000 acre-feet, and the proposed Lake Powell Pipeline would need 100,000 acre-feet, leaving about 74,000 acre-feet unused, theoretically.

Comments on Specific Parcels

Parcels **UT1108-161, UT1108-162, UT1108-163** (Ruby Ranch/Upper Labyrinth Area) are immediately to the east of Labyrinth Canyon on the Green River. Portions lie within wilderness area proposed by America's Redrock Wilderness Act as well as lands in the 1998 BLM Wilderness Inventory.

River and water resources: Riparian, wildlife, scenic, and recreational values of the Green River corridor [all parcels] In addition, the parcels lie within a 100-year floodplain, which contains critical habitat of endangered fishes, critical riparian habitat, critical watershed, and potential flash flood areas [162,163] as well as critical riparian habitat, springs, and public water reserves [161].

Visual resources: VRM Class II high-quality visual resources [162,163].

Species Habitat: Critical habitat and nesting sites for yellow-billed cuckoo [161], raptor species such as the burrowing owl and ferruginous hawk [161, 163], and riparian habitat and breeding grounds for the southwestern willow flycatcher [161].

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages.

Oil and Gas activity in this area will negatively impact the river and water resources, visual resources, proposed and inventoried wilderness areas, fragile soils and the species listed above. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-164, UT1108-165, UT1108-169, UT1108-177A** (I-70 Corridor/Book Cliffs Area) are located at the base of the Book Cliffs along the I-70 Corridor. Adjacent to wilderness area proposed by America's Redrock Wilderness Act, BLM Wilderness Study Area land, and land in the 1998 BLM Wilderness Inventory.

River and water resources: Parcels lie within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves [169].

Species Habitat: Critical habitat for raptor species such as the burrowing owl and ferruginous hawk [all parcels], yellow-billed cuckoo [169], southwestern willow flycatcher [169], and bald eagle [177A]. Critical winter range habitat for Deer and Elk. [164,177A] Critical antelope birthing habitat in spring [164,169].

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for

potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages. [all parcels]

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, proposed and inventoried wilderness areas, wilderness study areas, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-166, UT1108-167, UT1108-168, UT1108-171** (Duma Point Area) are bordered by Duma Point Road, parcels comprise wilderness area proposed by America's Redrock Wilderness Act.

Species Habitat: Critical habitat for kit fox [166], California condor [166], and Jones cycladenia [166]; desert bighorn lambing grounds and migration corridors [168, 171], and critical habitat and nesting sites for raptor species such as the burrowing owl and ferruginous hawk [167]

Air Quality: S-1 air shed designation [166]

Visual resources: VRM Class II high-quality visual resources [167]

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages. [167]

Oil and Gas activity in this area will negatively impact air quality, visual resources, fragile soils, the species listed above, and proposed wilderness areas. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-170, UT1108-171, UT1108-172, UT1108-173, UT1108-174, UT1108-175** (Ten Mile Canyon Area) are bisected by Levi Well Road, parcels contain wilderness area proposed by America's Redrock Wilderness Act [171,175]; land in the 1998 BLM Wilderness Inventory [175]; and land designated as Areas of Critical Environmental Concern (ACEC) [175]

River and water resources: Parcels lie within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves [170,172,173].

Species Habitat: Desert bighorn lambing grounds and migration corridors [170,171,172,173,174], critical habitat and nesting sites for yellow-billed cuckoo [170,172,173], raptor species [170,172,173], southwestern willow flycatcher [170,172,173].

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages. [170,172,173]

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, proposed and inventoried wilderness areas, ACECs, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be permanently removed from the lease sale.

Parcels **UT1108-176, UT1108-177** (Lower Labyrinth/Mineral Point Area) are located on mesa between Hell Roaring Canyon and Mineral Canyon as accessed by Mineral Point Road, parcels comprise wilderness area proposed by America's Redrock Wilderness Act and land in the 1998 BLM Wilderness Inventory.

Species Habitat: Desert bighorn lambing grounds and migration corridors [both parcels]. Oil and Gas activity in this area will negatively impact proposed and inventoried wilderness areas and the species listed above. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-178, UT1108-179** (191 Corridor Area) are located just west of Highway 191 5 or 6 miles north of the Moab Airport.

Visual Resources: VRM Class II for visual resources along the scenic 191 corridor [178].

Species Habitat: Sagebrush/steppe habitat essential to sage grouse and other sagebrush obligate species [178]. Critical habitat and nesting sites for raptor species [all parcels], critical habitat and breeding grounds for Yellow-billed cuckoo [179], Gunnison sage-grouse [179], and Southwestern willow flycatcher [179].

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages [all parcels].

Oil and Gas activity in this area will negatively impact the species listed above, visual resources and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be removed from the lease sale.

Parcels **UT1108-180, UT1108-181, UT1108-182, UT1108-183, UT1108-184, UT1108-185, UT1108-186, UT1108-196, UT1108-197** (Bartlett Wash/Tusher Canyon/Courthouse Pasture Area) are part of a large and important scenic and recreational area of parcels bordered by Blue Hills Road to the north, Dubinky Well Road to the west, Highway 313 (to Canyonlands) to the south, and Highway 191 to the east. Recreationally, this area contains many popular mountain biking trails including the Bartlett Wash Slickrock trail system, the Tusher Canyon Slickrock trail system, the Monitor & Merrimac Trail system, and the Mill Canyon Dinosaur Trail system. Scenically, this area comprises the Determination Towers, Echo Pinnacle, and Aeolian Tower. Tusher Canyon and Bartlett Wash are both designated Mountain Bike Areas within the BLM Resource Management Plan and are closed to motorized travel except on designated routes. Oil and Gas activity in this area will greatly detract from the desirability of these trails. The RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels.

River and water resources: Parcels lie within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves [180,181,183,185,196,197].

Species Habitat: Critical habitat and nesting sites for Yellow-billed cuckoo [180,181,183,185,196,197], raptor species [180,181,182,183,185,186,196,197], and Southwestern willow flycatcher [180,196,197], lambing grounds and migration corridors for Desert bighorn [181,182,183,184,185,186,196,197], and sensitive habitat for relict vegetation [185,196,197].

Visual Resources: VRM Class II designation for high-quality visual resources [186], VRM Class II for visual resources along the scenic 191 corridor [196,197].

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other

applicable damages [180,181,183,196].

Recreational Resources: Developed recreational sites exist with federal recreational facilities, established recreational use, and recreation-related view shed [196].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreational resources and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcel **UT1108-187** (Thompson Springs Area) lies northeast of Thompson Springs, south of the Book Cliffs, this parcel lies adjacent to wilderness area proposed by America's Redrock Wilderness Act, BLM Wilderness Study Area, and land within the 1998 BLM Wilderness Inventory.

Species Habitat: Critical habitat and nesting sites for bald eagle and raptor species such as the Burrowing owl and Ferruginous hawk.

Seasonal vulnerability: Fragile soils on steep slopes provide for potential winter watershed damage.

Oil and Gas activity in this area will negatively impact the species listed above, proposed and inventoried wilderness areas, wilderness study areas, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-189, UT1108-190, UT1108-191, UT1108-192, UT1108-193, UT1108-194** (Northwest Boundary of Arches National Park Area) are adjacent to the Eagle Park section of Arches National Park, parcels comprise Salt Valley, Long Valley, and Little Valley. Many test wells already exist in this area.

River and water resources: Parcels lie within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves [189,191,193].

Visual Resources: VRM Class II designation for high-quality visual resources [189,191,192,193,194].

Species Habitat: Critical habitat and nesting sites for Yellow-billed cuckoo [189,191,193],

raptor species [all parcels], Southwestern willow flycatcher [189,191,193], White-tailed prairie dog [189,190], and Bald eagle [191,193,194].

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages [all parcels].

Recreational Resources: Developed recreational sites exist with federal recreational facilities, established recreational use, and recreation-related view shed [194]. Potential light and sound pollution would negatively affect the experience of National Park visitors [all parcels].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreation, Class 1 airsheds, adjacent national parks, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-198, UT1108-199, UT1108-214, UT1108-215** (Yellow Cat Road/Lost Springs Canyon Area) are adjacent to the northern boundary of Arches National Park, parcels overlap Yellow Cat Road, lower Cottonwood Wash, and lower Lost Springs Canyon; parcels lie within the general view shed of the Devil's Garden section of Arches National Park. Parcel 215 lies mostly within the Dome Plateau portion of wilderness area proposed by America's Redrock Wilderness Act and adjacent to land within the 1998 BLM Wilderness Inventory.

Species Habitat: Critical habitat for white-tailed prairie dog [198], critical habitat and nesting sites for raptor species [198,199,215], critical winter habitat for deer and elk [198,199], critical habitat for Kit fox [214], California condor [214], and Jones cycladenia [214].

Air Quality: S-1 air shed designation [214].

Visual Resources: VRM Class II designation for high-quality visual resources [215].

Recreational Resources: Potential light and sound pollution would negatively affect the experience of National Park visitors [198,199,215].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, proposed and inventoried wilderness areas, wilderness study areas, and fragile soils. Because the RMP does not include a site-specific analysis that

addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be removed from the lease sale.

Oil and Gas activity in this area will negatively impact the species listed above, visual resources, recreation, Class 1 airsheds, adjacent national parks, proposed and inventoried wilderness areas. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcel **UT1108-200** (Amasa Back Area) is adjacent and overlapping the Amasa Back bike trail and the Jackson Hole bike trail southwest of Moab.

River and water resources: Riparian, wildlife, recreational, and wild & scenic values of the Colorado River corridor. In addition, the parcel lies within a 100-year floodplain, which contains critical habitat of endangered fishes, critical riparian habitat, critical watershed, and potential flash flood areas.

Species Habitat: Critical habitat and nesting sites for raptor species Burrowing owl and Ferruginous hawk.

Visual Resources: VRM Class II designation for high-quality visual resources along the scenic 279 (Potash Road) corridor.

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreation, Class 1 airsheds, adjacent national parks, proposed and inventoried wilderness areas, wilderness study areas, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective and the existence of the SRMA indicates that access to this parcel will violate the Visual Resource Management Objectives set forth in the RMP, and the loss of this trail would greatly jeopardize the Moab Recreation Economy. these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-201, UT1108-202, UT1108-203** (Northern Hatch Point Area) are located around the Anticline Overlook Road just to the east of (and overlooking) Lockhart Basin (part of the Canyon Rims Recreation Area), just to the west (and overlooking) Hatch Wash, Kane Springs Canyon, and Behind the Rocks Wilderness Study Area, and just to the east of the Canyonlands National Park boundary.

River and water resources: Parcels lie within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves [202].

Species Habitat: Sagebrush/sage steppe community habitat, especially for Sage grouse [201,202], critical antelope birthing habitat [201,202], critical habitat for Bald eagle [201,202], raptor species [all parcels], Gunnison sage-grouse [201,202], Mexican spotted owl [202,203], Yellow-billed cuckoo [202], and Southwestern willow flycatcher [202].

Visual Resources: VRM Class II designation for high-quality visual resources along the Anticline Overlook Road [all parcels].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, wilderness study areas, visual resources, recreation, Class 1 airsheds, and adjacent national parks. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-204, UT1108-205, UT1108-206, UT1108-207, UT1108-208** (Southern Hatch Point/Needles Overlook Area) are located west of the Anticline Overlook Road, on the Needles Overlook Road, to the east of (and overlooking) Indian Creek Wilderness Study Area, to the south of (and overlooking) Lockhart Basin (part of the Canyon Rims Recreation Area), and just to the east of the Canyonlands National Park boundary.

River and water resources: Parcels lie within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves [205,207].

Species Habitat: Critical habitat for Mexican spotted owl [204,205,207,208], raptor species such as Burrowing owl and Ferruginous hawk [all parcels], sagebrush/sage steppe species such as Sage grouse [205,206,207,208], Bald eagle [205,206,207,208], Yellow-billed cuckoo [205,207], Gunnison sage grouse [205,206,207,208], and Southwestern willow flycatcher [205,207], critical antelope birthing habitat [205,206,207,208].

Visual Resources: VRM Class II designation for high-quality visual resources along the Anticline Overlook Road [all parcels].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreation, Class 1 airsheds, and adjacent national parks. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels,

and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcel **UT1108-209** (Book Cliffs/Spruce Canyon WSA/Cottonwood Wash Area) lies along Cottonwood Wash immediately adjacent to the Spruce Canyon Wilderness Study Area, the Coal Canyon Wilderness Study Area, and the Flume Canyon Wilderness Study Area, and lies within wilderness area proposed by America's Redrock Wilderness Act and land within the 1998 BLM Wilderness Inventory. Portions of the parcel are located *within* the Coal Canyon Wilderness Study Area.

River and water resources: Parcel lies within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves.

Species Habitat: Critical habitat and breeding grounds for Yellow-billed cuckoo, Gunnison sage-grouse, and Southwestern willow flycatcher; critical winter habitat for deer and elk.

Visual Resources: VRM Class II designation for high-quality visual resources.

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale on steep slopes provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages.

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreation, Class 1 airsheds, adjacent national parks, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-210, UT1108-211, UT1108-212** (Book Cliffs/Coal Canyon WSA Area) lie just to the south of Coal Canyon Wilderness Study Area, and lie within wilderness area proposed by America's Redrock Wilderness Act and land within the 1998 BLM Wilderness Inventory.

River and water resources: Parcel lies within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves [211].

Species Habitat: Critical habitat for raptor species such as Burrowing owl and Ferruginous hawk [all parcels], Yellow-billed cuckoo [211], and Southwestern willow flycatcher [211]; critical antelope birthing habitat [all parcels].

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale on steep slopes provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages [all parcels].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, wilderness study areas, proposed and inventories wilderness, visual resources, recreation, Class 1 airsheds, adjacent national parks, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcel **UT1108-213** (I-70 Corridor/Nash Wash Area) lies north of I-70 at the base of the Book Cliffs, east of Nash Wash and northeast of Cisco.

Species Habitat: Critical habitat for raptor species such as Burrowing owl and Ferruginous hawk; critical antelope birthing habitat.

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages.

Oil and Gas activity in this area will negatively impact the species listed above and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-216, UT1108-242, UT1108-243, UT1108-244** (Dome Plateau/Colorado River Corridor Area) are located on the Dome Plateau just to the northwest of (and overlooking) the Professor Valley section of the Colorado River Corridor (comprising Red Cliffs Lodge, Sorrel River Ranch, and the Castle Valley turnoff). Parcels overlap with the Dome Plateau recreational jeep trail system and lie within the view shed of the Delicate Arch section of Arches National Park. Parcels lie within wilderness area proposed by America's Redrock Wilderness Act and lie adjacent to land within the 1998 BLM Wilderness Inventory.

River and water resources: Riparian, wildlife, scenic, and recreational values of the Colorado River corridor [242,243,244].

Species Habitat: Critical desert bighorn lambing grounds and migration corridors [all parcels], sagebrush/sage steppe community habitat for species such as Sage grouse [216,242,243], critical habitat for Bald eagle [all parcels], raptor species such as Burrowing owl and Ferruginous hawk [all parcels], Gunnison sage-grouse [216,242,243]
Visual Resources: VRM Class II designation for high-quality visual resources [all parcels].

Wilderness characteristics: Parcels lie in an area critical to the preservation of wilderness characteristics of Mary Jane Canyon, Fisher Towers, and the Beaver Creek Area (tributary to the Dolores River) [243].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreation, Class 1 airsheds, adjacent national parks, and proposed and inventories wilderness areas. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-217, UT1108-218** (Dry Mesa/Cache Valley/Colorado River Corridor Area) are located on Dry Mesa immediately adjacent to the eastern boundary of Arches National Park, and within direct view shed of both the Windows section and the Delicate Arch section of Arches National Park. Parcels lie just north of (and overlooking) the Colorado River Corridor, just east of the Salt Wash confluence. Parcels lie within wilderness area proposed by America's Redrock Wilderness Act.

River and water resources: Riparian, wildlife, scenic, and recreational values of the Colorado River corridor [all parcels]; parcels lie within a 100-year floodplain, which contains critical riparian habitat, springs, and public water reserves [218].

Species Habitat: Critical desert bighorn lambing grounds and migration corridors [all parcels], critical habitat and nesting sites for Bald eagle [217], raptor species such as Burrowing owl and Ferruginous hawk [all parcels], and Yellow-billed cuckoo [218], Southwestern willow flycatcher [218].

Visual Resources: VRM Class II designation for high-quality visual resources along the scenic highway 128 corridor [217].

Recreational Resources: Developed recreational sites exist with federal recreational facilities, established recreational use, and recreation-related view shed [all parcels]. Potential light and sound pollution would negatively affect the experience of National Park visitors [all parcels].

Seasonal vulnerability: Fragile saline soils derived from Mancos Shale provide for potential winter watershed damage, compaction, rutting, topsoil loss, and other applicable damages [218].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreation, Class 1 airsheds, adjacent national parks, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, the existence of the SRMA indicates access to these parcels will violate the Visual Resource Management Objectives set forth in the RMP, the loss of these trails would greatly jeopardize the Moab Recreation Economy, these parcels should be **permanently** removed from the lease sale.

Parcels **UT1108-219, UT1108-221, UT1108-222, UT1108-223** (Porcupine Rim Area) lie to the south of the Colorado River corridor and extend from Mat Martin Point southward across the world-renowned Porcupine Rim mountain biking area to Jackass Canyon. Parcels lie immediately adjacent to the southeastern boundary of Arches National Park and lie within the view shed of Arches National Park. Parcels lie within wilderness area proposed by America's Redrock Wilderness Act and immediately adjacent to the Negro Bill Canyon Wilderness Study Area. Parcel 219 extends across the Colorado River corridor and occupies a section north of the river adjacent to Salt Wash. The existence of the SRMA requires that the following lease parcels be deferred as access to these parcels will violate the Visual Resource Management Objectives set forth in the RMP. Further, the loss of these two trails would greatly jeopardize the Moab Recreation Economy.

River and water resources: Riparian, wildlife, scenic, and recreational values of the Colorado River corridor [all parcels]. In addition, the parcels lie within a 100-year floodplain, which contains critical habitat of endangered fishes, critical riparian habitat, critical watershed, and potential flash flood areas [219,222,223]

Species Habitat: Critical desert bighorn lambing grounds and migration corridors [219], critical habitat and nesting sites for Bald eagle [219], Burrowing owl and Ferruginous hawk [219,221,223].

Visual Resources: VRM Class II designation for high-quality visual resources along the scenic highway 128 corridor [all parcels].

Recreational Resources: Developed recreational sites exist with federal recreational

facilities, established recreational use, and recreation-related view shed [all parcels]. Potential light and sound pollution would negatively affect the experience of National Park visitors [all parcels].

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreation, Class 1 airsheds, adjacent national parks, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, the existence of the SRMA indicates access to these parcels will violate the Visual Resource Management Objectives set forth in the RMP, the loss of these trails would greatly jeopardize the Moab Recreation Economy, these parcels should be **permanently** removed from the lease sale.

Parcel **UT1108-224** (Sand Flats Recreation Area) lies immediately to the east of the town of Moab and comprises much of the world-renowned Slickrock Bike Trail. Sand Flats Road would be the main transportation access point. Parcel lies immediately adjacent to the Negro Bill Wilderness Study Area to the north, and to the Mill Creek Canyon Wilderness Study Area to the south.

River and water resources: Riparian, wildlife, scenic, and recreational values of Mill Creek Canyon and Negro Bill Canyon.

Recreational Resources: Recreational and scenic values specific to Sand Flats SRMA. Developed recreational sites exist with federal recreational facilities, established recreational use, and recreation-related view shed. Potential light and sound pollution would negatively affect the experience of National Park visitors.

Oil and Gas activity in this area will negatively impact the river and water resources, the species listed above, visual resources, recreation, Class 1 airsheds, adjacent national parks, and fragile soils. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, the existence of the SRMA indicates access to these parcels will violate the Visual Resource Management Objectives set forth in the RMP, the loss of these trails would greatly jeopardize the Moab Recreation Economy, these parcels should be **permanently** removed from the lease sale.

Parcel: **UT1108-225** (Spanish Valley/Cedar Hills Area) comprises most of the Cedar Hills residential neighborhood to the northeast of Murphy Lane, including the Moab golf

course. Privately-owned parcels are split-estate, so that property owners only own the surface rights, and the federal government holds ownership of the subsurface mineral rights.

River and water resources: Though not properly addressed in the BLM's RPM (Resource Management Plan), the parcel lies atop Moab's sole-source aquifer and watershed, which provides the bulk of its potable water. BLM stipulations do not mitigate possible drilling-related irrevocable damage to this vital municipal water source.

Recreational Resources: Parcel has established recreational and scenic values. Developed recreational sites exist with federal recreational facilities, established recreational use, and recreation-related view shed.

Private Homes: Parcel contains private homes and critical view shed for residents. The Moab Resource Management Plan (RMP) is patently defective with regard to Parcel 225 because the RMP failed to include any discussion of the unique characteristics of the surface ownership, and the RMP failed to provide a requisite quantitative analysis of the impacts that the lease sale and the development of oil and gas would have upon the various residential communities within Parcel 225. The above failure has abrogated the public's right and ability to understand the impacts and provide substantive comments to the RMP.

The BLM has failed to comply with NEPA mandated processes because it has not conducted a comprehensive site-specific analysis of the impacts to the residential communities within Parcel 225 prior to making Parcel 225 available for lease sale. The above failures invalidate the BLM Memorandum (signed November 5, 2008 from Lynn Jackson, BLM Associate Field Manager to the BLM State Director) recommending the lease sale of 71 Parcels on December 19, 2008, including Parcel 225, because the specific responses to the "Worksheet Documentation of Land Use Plan Conformance and Determination of NEPA Adequacy (DNA)" are incorrect or indeterminate, and as a result, the principle conclusions are fundamentally flawed, which are a) affirmative conformance of the proposal to the land use plan, and b) affirmative compliance of the proposal with the requirements of NEPA.

The RMP contains general socioeconomic statements and conclusions, which by deduction extend to the residential communities within Parcel 225, that could contraindicate Parcel 225 from lease sale consideration had a site-specific analysis been performed. For example, the RMP Section 3.13.1.6.5 (pages 3-108 & 109) states,

Parcel **UT1108-314** (Kirks Basin Area) lies adjacent to the northeastern boundary of the La Sal mountains (national forest) south of the John Brown Canyon road along the road leading to Sinbad Ridge.

Watershed: Adjacent to the Manti-La Sal National Forest and the EPA Designated Sole Source Aquifer that serves Castle Valley.

Species Habitat: Critical habitat for Kit fox, California condor, and Jones cycladenia.

Air Quality: S-1 air shed designation.

Oil and Gas activity in this area will negatively impact the species listed above, air quality and the Sole Source Aquifer. Because the RMP does not include a site-specific analysis that addresses the impacts of oil and gas development included in these lease sale parcels, and NSO stipulations are not sufficiently protective, these parcels should be **permanently** removed from the lease sale.

REQUEST FOR RELIEF

RRF requests the following appropriate relief: (1) the withdrawal of all of the protested parcels from the December 19, 2008 Competitive Oil and Gas Lease Sale until such time as BLM complies with federal law as listed in this protest because as proposed their sale and subsequent potential development will cause irreparable harm to the ecology and economy of Grand and San Juan counties; (2) BLM establish a Southeast Utah Working Group to be chartered under the Federal Advisory Committee Act (FACA) for the purpose of providing the BLM with citizen participation in determination of appropriate future lease sales.

This protest is brought by Red Rock Forests and members and staff of RRF, as well as the undersigned organizations and individuals.

Thank you for your consideration of our concerns.

Sincerely,



Terry Shepherd, Executive Director, Red Rock Forests

On behalf of George Wuerthner; Bradley Angel, GreenAction; Ronni Egan, Great Old Broads for Wilderness and Harold Shepherd, Moab Local Green Party