

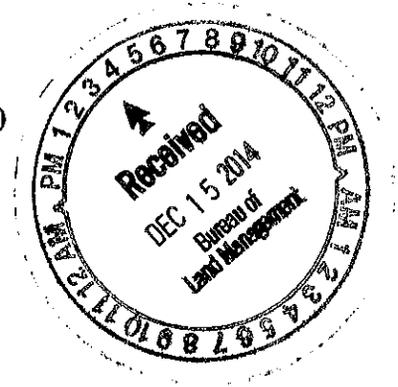


southern
utah
wilderness
alliance

HAND DELIVERED (Attachments provided on accompanying CD)

December 15, 2014

Juan Palma
Utah State Director
Bureau of Land Management
440 West 200 South, 5th Floor
Salt Lake City, Utah 84101-1345



Re: Protest of the Bureau of Land Management, Canyon Country District's Notice of Competitive Oil and Gas Lease Sale to be Held on February 17, 2015

Dear Director Palma,

In accordance with 43 C.F.R. §§ 4.450-2 and 3120.1-3, the Southern Utah Wilderness Alliance, Grand Canyon Trust, and Natural Resources Defense Council (collectively, "SUWA") hereby timely protest the February 17, 2015 offering, in Salt Lake City, Utah, of the following thirteen parcels in the Moab and Monticello field offices:

UTU-090945 (Parcel 38), UTU-090957 (Parcel 57), UTU-090958 (Parcel 58),
UTU-090959 (Parcel 59), UTU-090963 (Parcel 65), UTU-090965 (Parcel 85),
UTU-090966 (Parcel 87), UTU-090967 (Parcel 90), UTU-090968 (Parcel 91),
UTU-090974 (Parcel 109), UTU-090975 (Parcel 110) UTU-090976 (Parcel 111),
and UTU-090979 (Parcel 114).

As explained below, the Bureau of Land Management, Canyon Country District's ("BLM") decision to sell these thirteen parcels violates the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321 *et seq.*; the Federal Land Policy and Management Act ("FLPMA"), 43 U.S.C. §§ 1701 *et seq.*; the National Historic Preservation Act ("NHPA"), 16 U.S.C. §§ 470(a) *et seq.*; the Administrative Procedures Act ("APA"), 5 U.S.C. §§ 551-559, 701-

706, Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531 *et seq.*, and the regulations and policies that implement these laws.

SUWA requests that BLM withdrawn these thirteen lease parcels from sale until the agency has fully complied with all federal laws, regulations, and executive orders discussed herein. Alternatively, the agency could attach unconditional no surface occupancy (“NSO”) stipulations to each respective parcel and proceed with the sale of these parcels.

SUWA hereby incorporates the protests filed by the National Parks Conservation Association *et al.*; Utah Rock Art Research Alliance; and WildEarth Guardians *et al.*¹

I. BLM Must Undertake Satisfactory NEPA Analysis Now Because Leasing is the Point of Irreversible Commitment

It is critical that BLM undertake satisfactory NEPA analysis before issuing these leases as subsequent approvals by BLM will not be able to completely eliminate potential environmental impacts. Unfortunately, the BLM has not fully analyzed potential irreversible and irretrievable impacts that could flow from its leasing decision. The sale of leases without nonwaivable, NSO stipulations represents a full and irretrievable commitment of resources. BLM cannot make such a commitment without adequate analysis. “BLM regulations, the courts and [Interior Board of Land Appeals (“IBLA”)] precedent proceed under the notion that the issuance of a lease without an NSO stipulation conveys to the lessee an interest and a right so secure that full NEPA review must be conducted prior to the decision to lease.” *Southern Utah Wilderness Alliance*, 159 IBLA 220, 241 (2003) (citing *Friends of the Southeast’s Future v. Morrison*, 153 F.3d 1059, 1063 (9th Cir. 1998) (additional citations omitted); see *Pennaco Energy, Inc. v. U.S. Dep’t of the Interior*, 377 F.3d 1147, 1159-61 (10th Cir. 2004); *Union Oil*

¹ SUWA’s incorporation of these protests is limited to the parcels identified on page 1 of this Protest and challenged herein.

Southern Utah Wilderness Alliance

December 15, 2014

Re: Protest – February 17, 2015, Oil and Gas Lease Sale

Co., 102 IBLA 187, 189 (1988) (citing *Sierra Club v. Peterson*, 717 F.2d 1409, 1412 (D.C. Cir. 1983)); *Conner v. Burford*, 848 F.2d 1441, 1448-51 (9th Cir. 1988) (holding that the selling of leases containing “no surface occupancy” stipulations did not require preparation of an environmental impact statement, but that an environmental impact statement was required before the selling of leases without “no surface occupancy” stipulations); *Peterson*, 717 F.2d at 1414 (same). Thus, in *Southern Utah Wilderness Alliance*, the IBLA explained that

[t]he courts have held that the Department must prepare an EIS before it may decide to issue such “non-NSO” oil and gas leases. The reason, according to the Ninth Circuit, is that a “non-NSO” lease “does not reserve to the government the absolute right to prevent all surface disturbing activities” and thus its issuance constitutes “an irreversible commitment of resources” under Section 102 of NEPA.

159 IBLA at 241 (citing *Conner*, 848 F.2d at 1448-51); *Union Oil*, 102 IBLA at 192-93 (same).

As the IBLA recognized in *Union Oil*, “[i]f BLM has not retained the authority to preclude *all* surface disturbance activity, then the decision to lease is itself the point of ‘irreversible, irretrievable commitment of resources’ mandating the preparation of an [environmental impact statement (EIS)].” (Emphasis added). *Union Oil*, 102 IBLA at 189 (quoting *Peterson*, 717 F.2d at 1412); see also *Southern Utah Wilderness Alliance*, 159 IBLA at 241-43 (same); *Sierra Club, Oregon Chapter*, 87 IBLA 1, 5 (1985) (because issuance of non-NSO oil and gas leases constitutes an irreversible commitment of resources, BLM cannot defer preparation of an EIS unless it either retains authority to preclude development or issues the leases as NSO).

BLM itself identifies lease issuance as the point of irretrievable commitment:

[t]he BLM has a statutory responsibility under NEPA to analyze and document the direct, indirect and cumulative impacts of past, present and reasonably foreseeable future actions resulting from Federally authorized fluid minerals

activities. By law, these impacts must be analyzed before the agency makes an irreversible commitment. In the fluid minerals program, this commitment occurs at the point of lease issuance.

BLM Handbook on Planning for Fluid Minerals Resources, Chapter (H-1624-1), at I.B.2 (1990) (emphasis added);² *see S. Utah Wilderness Alliance v. Norton*, 457 F. Supp. 2d 1253, 1256 (D. Utah 2006).

Therefore, it is critical that BLM analyze all reasonable, foreseeable potential impacts of oil and gas development on these leases now rather than wait until a later date. BLM has not performed the requisite analysis for all relevant resources at the leasing stage. As explained below, this failure may have irreversible negative impacts on cultural resources, white-tailed prairie dogs, yellow-billed cuckoos, water quality, and the Alkali Ridge area of critical environmental concern.

II. BLM Must Respond to Substantive Issues Raised in Comments

The BLM is required under NEPA to “respond to substantive issues raised in comments.” *Utahns for Better Transp. v. U.S. Dept. of Transp.*, 305 F.3d 1152, 1165 (10th Cir. 2002) (citing 40 C.F.R. § 1503.4(a)). By responding to public comments BLM satisfies its obligation to “inform the public that it has considered environmental concerns in its decision-making process.” *Citizens’ Committee to Save Our Canyons v. Krueger*, 513 F.3d 1169, 1178 (10th Cir. 2008). It also is an essential component of NEPA’s hard look obligation as it demonstrates whether the agency considered “the salient problems” and “engaged in reasoned decision-

² A lessee is granted the “exclusive right to drill for, mine, extract, remove and dispose of all the oil and gas [in the lease parcel] together with the right to build and maintain necessary improvements thereupon for the term indicated below, subject to renewal or extension in accordance with the appropriate leasing authority.” BLM Form 3100; *see also* 43 C.F.R. § 3110.1-2 (surface use rights).

making.” *Greater Boston Television Corp. v. F.C.C.*, 444 F.2d 841, 851 (D.C. Cir. 1970); *see also Utahns for Better Transp.*, 305 F.3d at 1163 (federal agencies must “adequately consider[] and disclose[] the environmental impacts of its actions”).

Furthermore, Council on Environmental Quality regulations make clear that “public scrutiny [is] essential to implementing NEPA.” 40 C.F.R. § 1500.1(b). Moreover, federal agencies must “[e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment.” *Id.* § 1500.2(d). “Agencies are under an obligation to follow their own regulations, procedures, and precedents, or provide a rational explanation for their departure.” *Utahns for Better Transp.*, 305 F.3d at 1165.

Additionally, under the APA it is a “fundamental tenet of administrative law” that federal agencies respond adequately to all significant comments. *See Natural Res. Def. Council v. EPA*, 859 F.2d 156, 188 (D.C. Cir. 1988). “[T]he opportunity to comment is meaningless unless the agency responds to significant points raised by the public.” *ACLU v. FCC*, 823 F.2d 1554, 1581 (D.C. Cir. 1987) (citing *Alabama Power Co. v. Costle*, 636 F.2d 323, 384 (D.C. Cir. 1979)). A comment is “significant” when “if true, [it] raise[s] points relevant to the agency’s decision and which, if adopted, would require a change in an agency’s proposed [action].” *Home Box Office v. FCC*, 567 F.2d 9, 35, n.58 (D.C. Cir. 1977). An agency’s failure to respond to comments “demonstrates that the agency’s decision was not based on a consideration of the relevant factors.” *Sierra Club v. EPA*, 353 F.3d 976, 986 (D.C. Cir. 2004); *see also NRDC v. EPA*, 859 F.2d at 188 (“The fundamental purpose of the response requirement is, of course, to show that the agency has indeed considered all significant points articulated by the public.”).

In the present case, BLM invited public participation by providing a thirty-day comment period on the draft EA. SUWA submitted detailed and specific comments (as did many other

Southern Utah Wilderness Alliance

December 15, 2014

Re: Protest- February 17, 2015, Oil and Gas Lease Sale

[Redacted]

Southern Utah Wilderness Alliance
December 15, 2014
Re: Protest- February 17, 2015, Oil and Gas Lease Sale

[Redacted]

Southern Utah Wilderness Alliance

December 15, 2014

Re: Protest- February 17, 2015, Oil and Gas Lease Sale

[REDACTED]

IV. The EA Failed to Take a Hard Look at Impacts to White-Tailed Prairie Dogs

The EA does not contain any evidence that BLM considered or responded to substantive comments submitted by SUWA relating to potential direct, indirect, or cumulative impacts to white-tailed prairie dogs. As such, there is no evidence that BLM took a hard look at this issue as it pertains to lease parcels 38, 57, 58, 59, or 91.

In our comments on the Draft EA, we noted that a Federal district court judge recently rejected the United States Fish and Wildlife Service's ("FWS") finding that listing the white-tailed prairie dog was not warranted under the ESA. *See generally* SUWA's Comments on Draft EA 5-7. We also noted that the court specifically rejected FWS's finding on the basis that "[e]xisting BLM regulations are ... of limited assistance as they do not extend across the species' entire range or the entire landscape where possible oil and gas development may occur."

⁷ A lessee is granted the "exclusive right to drill for, mine, extract, remove and dispose of all the oil and gas [in the lease parcel] together with the right to build and maintain necessary improvements thereupon for the term indicated below, subject to renewal or extension in accordance with the appropriate leasing authority." BLM Form 3100; *see also* 43 C.P.R. § 3110.1-2 (surface use rights) (BLM may only require mitigation to the extent it does not require relocation of proposed operations by greater than 200 meters or prohibit new surface disturbance for longer than 60 days in any given lease year).

Southern Utah Wilderness Alliance
December 15, 2014
Re: Protest – February 17, 2015, Oil and Gas Lease Sale

Id. at 6 (citing *Rocky Mountain Wild et al. v. FWS*, 9:13-cv-00042-DWM at *26-27 (D. Mont. Sept. 29, 2014) (attached)). Moreover, the court held there was “little justification for [the FWS’s finding] that regulatory mechanisms as they relate to oil and gas development are adequate in light of the threat.” *Id.* (citing *Rocky Mountain Wild*, 9:13-cv-00042-DWM at *27-28). These comments are significant; thereby requiring a response from BLM. *See Home Box Office v. FCC*, 567 F.2d 9, 35 n. 58 (D.C. Cir. 1977) (significant comments requiring an response are those “which, if true, raise points relevant to the agency’s decision and which, if adopted, would require a change in an agency’s [proposed action]”).

There is no evidence in the EA that BLM responded to these concerns. *See* EA at 61 (responding only to SUWA’s comments regarding Stipulation UT-S-218). For example, a discussion on the potential impacts to white-tailed prairie dogs and their habitat was not added to the EA. *See* EA at 142-43. Moreover, in BLM’s response to comments, the agency arbitrarily summarized our comments to inaccurately indicate that the only concern raised was whether the agency applied proper stipulations to lease parcels that may contain the species’ habitat. *See* EA at 61 (“Comment Text” box for comment number 36 states that the comment received from SUWA argued that Stipulation UT-S-218 was not attached to the proper parcels). This mischaracterizes the scope and breadth of our comments and completely ignores the majority of the points on potential impacts to the species raised in our letter. No reason is provided anywhere in the EA for why BLM did not respond to the majority of our concerns.

In fact, the text of the EA strongly suggests that BLM *did not even consider* our concerns since the IDT Checklist for the Moab field office for “Utah BLM Sensitive Species” was signed and dated on July 26, 2014 – *two months before the release of the Draft EA, three months before the receipt of SUWA’s comments, and four months before the release of the final EA.* *See* EA at

142-43. Even more, the “Rationale for Determination” in the IDT Checklist is word-for-word the *exact same* as it was prior to SUWA’s comments. Compare EA at 142-43, with Draft EA at 120-21. The agency did not modify alternatives, develop or evaluate alternatives not previously considered, supplement, improve, or modify its analyses, make factual corrections, or explain why SUWA’s comments did not warrant further agency response. See 40 C.F.R. §§

1503.4(a)(1)-(5). Apparently, BLM completely ignored SUWA’s comments.

BLM’s regulatory mechanisms for oil and gas development that it relies on here to proceed with this lease sale have been found to be wholly inadequate to protect white-tailed prairie dogs. See *Rocky Mountain Wild*, 9:13-cv-00042-DWM at *24-28. Specifically, oil and gas development “poses the most significant threat to the species.” *Id.* at *25. BLM ignored SUWA’s comments on this point, without providing an explanation why, and offered the challenged leases with the same business-as-usual approach of attaching a stipulation riddled with waivers and exceptions – a stipulation (*i.e.*, “regulatory mechanism”) held to be insufficient. See, *e.g.*, EA at 98 (UT-S-218 attached to lease parcel 065); *id.* at 112 (exceptions, modifications, and waivers, for UT-S-218).

Second, BLM also failed to consider or respond to SUWA’s comment that the Draft EA “underestimates the amount of white-tailed prairie dog habitat present in parcels offered for leasing.” SUWA’s Comments on EA at 6. Attached with our comments was a map prepared using data obtained from the United States Geological Survey that clearly depicts potential white-tailed prairie dog habitat in each of the challenged leases discussed in this subsection. See Map_WhiteTailedPrairieDogHabitat (attached); see also Murdock Decl. ¶¶ 8-10. However, stipulation UT-S-218 is attached only to parcel 065 – despite the EA’s recognition that white-

tailed prairie dogs may be present in parcels 042 and 097 – and not attached to parcels 038, 057, 058, 059, or 91.⁸ See EA at 90-91, 95-97, 101-02, 143. This is plain error.

The BLM cannot have taken a “hard look” at the potential direct, indirect, and cumulative impacts to white-tailed prairie dogs when it completely ignored relevant information provided by the public. See *Hillsdale Environmental Loss Prevention v. U.S. Army Corps of Engineers*, 702 F.3d 1156, 1175 (10th Cir. 2012) (under NEPA the agency is required “to take a ‘hard look’ at information relevant to its factual determination”); *Forest Guardians v. U.S. Fish and Wildlife Service*, 611 F.3d 692, 711 (10th Cir. 2010) (“an agency’s decision is arbitrary and capricious if the agency (1) entirely failed to consider an import aspect of the problem . . . (3) failed to base its decision on consideration of the relevant factors.”) (internal quotations omitted). Furthermore, this failure falls far short of the agency’s duty to “[m]ake diligent efforts to involve the public in preparing and implementing their NEPA procedures.” 40 C.F.R. § 1506.6(a); see also *supra* Section II (discussion BLM’s legal obligations to respond to public comments).

Therefore, the challenged lease parcels should be removed from the upcoming oil and gas lease sale in order for BLM to fully comply with relevant environmental law, regulation, and policy.

V. The EA Failed to Take a Hard Look at Impacts to Yellow-Billed Cuckoo

The EA failed to take a hard look at the direct, indirect, and cumulative impacts to yellow-billed cuckoo when BLM arbitrarily failed to consider or respond to SUWA’s substantive concerns raised in our comments on the Draft EA. As a result, lease parcels 58, 85, 87, and 114,

⁸ At a minimum, BLM should attach a version of UT-S-218 that does not allow for exceptions, modifications, or waivers, to each of the respective parcels.

should be removed from the upcoming lease sale, or NSO stipulations attached to each entire parcel.

In our comments we noted that the FWS had recently listed the yellow-billed cuckoo as threatened under the ESA and was proposing to designate critical habitat in Utah. *See* SUWA's Comments on Draft EA at 7-8. In response, BLM stated that

On 10/16/2008 (Moab) and 10/29/2008 (Monticello) concurrence was received from the [FWS] that land use decisions in the 2008 RMPs would be "Not likely to contribute to Federal listing" for the then candidate species, the Western Yellow-billed cuckoo . . . This concurrence was received through commitment to adherence to the Conservation Measures listed in the Biological Opinion for this species. Oil and gas lease stipulations, listed in the 2008 RMPs, were developed to assure these Conservation Measures would be adhered to. These lease stipulations have been placed on all parcels that contain potential habitat for this species. Due to prior consultation efforts and concurrence from the [FWS] for this species prior to formal listing the need to defer these parcels has been eliminated, as land use decisions have been analyzed and mitigation measures developed to insure RMP compliance with the ESA.

EA at 61. This response is illogical and arbitrary since it ignores several obvious facts.

First, on October 3, 2014, FWS listed the yellow-billed cuckoo as threatened under the ESA due to the inadequacy of current federal and state regulatory mechanisms. *See* 79 Fed. Reg. 59992, 60031 (Oct. 3, 2014) (attached). The relevant conservation measures and stipulations contemplated in the EA do not account for this significant new factor. *See* EA at 96, 99-100, 106-07 (stipulations and notices attached to each parcel).

Second, regardless of listing, the Conservation Measures and relevant stipulations have proven to be entirely inadequate and have failed to protect the species as evidenced by the need to list yellow-billed cuckoo as threatened under the ESA. *See, e.g.,* 79 Fed. Reg. at 60013 (FWS declined to provide an exemption from section 4(d) of the ESA for oil and gas development because doing so would be not be advisable); *id.* at 60031 (current regulatory mechanisms are

“inadequate to address the threats associated with the species and its habitat”). Specifically, FWS’s prior concurrence was – in hindsight – wrong, as was FWS and BLM’s belief that the conservation measures and attached stipulations, as set forth in the RMPs, were up to the task of protecting the species. It therefore makes no sense for BLM to continue to rely on and apply the same measures and stipulations now. However, that is exactly what has happened here since the stipulation attached to each parcel at issue is the *exact same* as written as it was prior to the listing of the species. *Compare* EA at 117 (stipulation UT-S-297), *with* Moab RMP, Appendix A, Stipulations and Environmental Best Practices Applicable to Oil and Gas Leasing and Other Surface-Disturbing Activities at A-29-30 (describing stipulation for yellow-billed cuckoo), *and* Monticello RMP, Appendix B, Stipulations and Environmental Best Practices Applicable to Oil and Gas Leasing and Other Surface-Disturbing Activities at 16-17 (describing stipulation for yellow-billed cuckoo). BLM does not – and cannot – provide any reasonable justification for attaching the same stipulation and conservation measures which failed in the first place and resulted in the listing of the species and now claim that yellow-billed cuckoo and its habitat will be protected “in compliance with the ESA.” *See* 79 Fed. Reg. at 60027-29 (discussing the inadequacy of federal and state regulatory mechanisms).

The BLM’s continued reliance on inadequate conservation measures and stipulations is also arbitrary because FWS no longer stands by its prior concurrence.⁹ *See* 79 Fed. Reg. at 60027-29 (discussing the inadequacy of federal and state regulatory mechanisms). For example,

⁹ It is unclear whether FWS has formally withdrawn its concurrence since the EA only states – inaccurately – that consultation with FWS is “ongoing.” EA at 162. However, it appears that despite the recent listing decision BLM is still relying on the prior concurrence letter. *See, e.g., id.* at 48 (“Formal consultation was completed as part of the RMP/ROD in the form of the Biological Opinion.”). SUWA requested from BLM all consultation letters sent and/or received by the agency but has yet to be provided with the information. *See* E-mail from Landon Newell, SUWA, to Justin Abernathy, BLM, (10:15 AM, Dec. 12, 2014) (attached).

FWS determined that the yellow-billed cuckoo should be listed under the ESA, in part, because “the current regulatory regime does not adequately address the majority of impacts to the western yellow-billed cuckoo or its habitat.” 79 Fed. Reg. at 60031. “Although some protections currently exist for the species and its habitat as a result of existing regulatory mechanisms at the Federal, State, or local level, our evaluation suggests these protections are inadequate to address the threats associated with the species and its habitat.” *Id.* Relevant to the issue at hand, FWS found that under FLPMA “the BLM . . . ha[s] discretion in how these statutes are carried out and measures are implemented,” and as a result there continues to be “loss and degradation of habitat for the western yellow-billed cuckoo on lands [managed by the agency].” *Id.* at 60028.

The analysis and conclusions reached, including the alternative to lease parcels 58, 85, 87, and 114, may have substantially changed if BLM had taken a hard look at SUWA’s comments. For example, BLM could have provided additional protective measures for yellow-billed cuckoo other than stipulation UT-S-297, such as not offering the parcels or offering them with NSO stipulations, since that stipulation is ineffective as evidenced by the listing of the species. This is also evidenced by FWS’s conclusion that current regulatory mechanisms are inadequate to ensure that the species is properly protected. Second, BLM would have re-initiated formal consultation with FWS since the prior concurrence from 2008 is no longer valid. Finally, BLM would have attached NSO stipulations that cover the entire parcel area of 58, 85, 87, and 114, in order to preserve its ability to formulate or implement reasonable alternatives designed to provide additional protection, as needed.

Therefore, parcels 58, 85, 87, and 114, should be removed from the upcoming lease sale. In the alternative, BLM can attach a NSO stipulation (that covers the entire area of each affected parcel) and proceed with the sale of each of the challenged parcels.

VI. The EA Violates the ESA

The BLM has not consulted with the FWS to ensure that the lease sale will not jeopardize the continued existence of the yellow-billed cuckoo. Moreover, the EA forecloses the possibility of BLM formulating or implementing reasonable or prudent alternatives in order to avoid potential Section 7(a)(2) violations. Both of these failures are violations of the ESA.

a. The BLM Has Not Consulted with the FWS

Informal or formal consultation has *not* occurred for the yellow-billed cuckoo, as required by the ESA. *See* 16 U.S.C. § 1536(a)(2). In 2008, at the time of the referred to “concurrence,” the yellow-billed cuckoo was a candidate species and thus, it was impossible for informal or formal consultation to occur. *See id.* § 1536(a)(1) (requiring to federal agencies to consult with FWS for “endangered” and “threatened” species); *see also* Moab ROD, Appendix B at B-2 (referring to the “Conference Opinion” for the candidate species yellow-billed cuckoo); Monticello ROD, Appendix E at 1 (same). Under the ESA, BLM’s obligation to consult with FWS is “triggered” once a species is listed as threatened or endangered. *See Center for Native Ecosystems v. Cables*, 509 F.3d 1310, 1314 (10th Cir. 2007) (the listing of the Preble’s mouse as threatened “triggered § 7(a)(2) of the [ESA]”). Section 7(a)(2) specifically states that “[e]ach Federal agency shall, in consultation with and with the assistance of the [FWS], insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any . . . threatened species.” 16 U.S.C. § 1536(a)(2).

“As a general matter, formal consultation is required when agency action ‘may affect listed species.’” *Center for Native Ecosystems*, 509 F.3d at 1321 (citing 50 C.F.R. § 402.14(a)). “An agency may forgo formal consultation, however, if it engages in informal consultation with the FWS and determines, *with the written concurrence of the FWS*, that even if the proposed

action ‘may affect listed species . . .’ ‘it is not likely to adversely affect any listed species’” *id.* (citing 50 C.F.R. §§ 402.14(a), 402.14(b)) (emphasis added). In the present case, BLM has not engaged in formal or informal consultation with the FWS. *See* E-mail from Landon Newell, SUWA, to Betsy Herrmann, FWS (3:41 PM, Dec. 12, 2014) (FWS confirming that they had not received any consultation letters from BLM as of December 12, 2014) (“E-mail with FWS”) (attached). Thus, the EA wrongly states that consultation is “ongoing.” *See* EA at 162.¹⁰ The failure to consult with FWS violates the ESA.

b. The EA Foreclosed BLM from Formulating or Implementing Reasonable or Prudent Alternatives

The EA forecloses BLM from formulating or implementing reasonable and prudent development alternatives, such as attaching a NSO stipulation, on parcels that overlap with yellow-billed cuckoo habitat. Under the ESA, Federal agencies “shall make no irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives which would avoid violating section 7(a)(2) [of the ESA].” 50 C.F.R. § 402.09; *see also* 16 U.S.C. § 1536(d) (same). That is exactly what BLM has done here.

As noted, the leasing of parcels for oil and gas exploration and development without NSO stipulations is an irretrievable commitment of resources. *See supra* Section I; *see also* EA at 19 (“leasing is considered to be an irretrievable commitment of resources.”). Parcels 58, 85, 87, and 114, overlap yellow-billed cuckoo habitat. *See* EA at 96, 100, 107 (applying stipulation

¹⁰ In fact, it is unclear whether BLM even plans on consulting with the FWS, as is required by law, since the agency inaccurately believes that “[f]ormal consultation was completed as part of the RMP/ROD in the form of the Biological Opinion.” EA at 48. Formal consultation *was not and could not* have been completed for the yellow-billed cuckoo during the 2008 RMP/ROD process because the species was not listed as threatened or endangered at that time.

UT-S-297 to each respective parcel). Each of these parcels is offered *without* a NSO stipulation for the entire respective parcel area; thereby foreclosing BLM from prohibiting surface disturbance in these areas. *See id.* at 96, 100, 107 (describing stipulations attached to each parcel, respectively); *Southern Utah Wilderness Alliance*, 159 IBLA at 241 (“a ‘non-NSO’ lease does not reserve to the government the absolute right to prevent all surface disturbing activities.”). As a result, BLM is foreclosed from considering a reasonable or prudent alternative that would restrict surface disturbance activities throughout each of the respective parcels, in violation of the ESA.

In *NRDC v. Houston*, the court held that the United States Forest Service violated the ESA when the agency renewed forty-year water contracts without first completing the formal consultation process with the FWS. 146 F.3d 1118, 1127-28 (9th Cir. 1998). The contracts “limit[ed] conservation-based modifications to minor adjustments and prohibit[ed] an adjustment in the amount of water delivered.” *Id.* at 1128. As such, “the reasonable and prudent alternative of reallocating contracted water from irrigation to conservation is foreclosed.” *Id.* Therefore, the contracts were invalid and “subject to rescission.” *Id.*

The court in *NRDC v. Houston* also rejected the argument that the violation of the ESA section 7(d) was mooted by the subsequent issuance of a “no jeopardy” biological opinion. 146 F.3d at 1128. Specifically, the biological opinion “did not moot the procedural ESA violations because [its issuance] did not provide all the relief that could have been granted.” *Id.* The court explained that

[p]rocedural violations of the ESA are not necessarily mooted by a finding by the FWS that a substantive violation of the ESA had not occurred. The process, which was not observed here, itself offers valuable protections against the *risk* of a substantive violation and ensures that environmental concerns will be properly factored into the decision-making process as intended by Congress.

Id. at 1128-29 (emphasis in original). The court concluded by noting that “[t]he failure to respect the process mandated by law cannot be corrected with post-hoc assessments of a done deal.” *Id.* at 1129.

In the present case, as noted *supra*, BLM has not even started, let alone finished, the consultation process with the FWS for the lease sale. *See* E-mail with FWS. This failure cannot be corrected with post-hoc assessments. Second, the stipulations attached to each parcel provide for only limited conservation-based modifications and do not allow BLM to prohibit surface disturbing activities. *See* EA at 96, 99-100, 106-07. BLM is foreclosed from establishing conservation measures, including prohibiting surface disturbance in yellow-billed cuckoo habitat, on account of the stipulations (or lack thereof) attached to each parcel. Finally, BLM is offering the affected lease parcels in reliance on a future – yet to be received – “no jeopardy” concurrence from the FWS. The approach taken in each instance violates the ESA.

Therefore, parcels 58, 85, 87, and 114, should be removed from the upcoming lease sale, or, in the alternative, NSO stipulations attached to each parcel.

VII. BLM Failed to Consider the Social Cost of Carbon

The BLM failed to take a hard look at the social cost of carbon when the agency ignored SUWA’s comments on this topic. The EA, Moab RMP, and Monticello RMP, did not consider the social cost of carbon that will result from the leasing and development of these proposed leases as well as the cumulative costs of carbon emissions from oil and gas development in the Moab and Monticello field offices as a whole. The social cost of carbon refers to the costs and benefits of decisions increasing or decreasing carbon. Because the BLM did not consider this it did not comply with NEPA.

Southern Utah Wilderness Alliance
December 15, 2014
Re: Protest – February 17, 2015, Oil and Gas Lease Sale

SUWA provided the Moab and Monticello field offices with information relating to this issue. *See* SUWA's Comments on Draft EA at 24-25. SUWA pointed BLM to a formula developed by the U.S. Environmental Protection Agency ("EPA") for estimating potential costs and benefits of decisions increasing or decreasing carbon. *See* U.S. Environmental Protection Agency, *The Social Cost of Carbon* (Nov. 26, 2013), <http://www.epa.gov/climatechange/EPAactivities/economics/scc.html> (attached)).

SUWA explained that this formula and these calculations had already been used by the Billings Field Office of the BLM in an environmental analysis performed to evaluate the socioeconomics of a proposed oil and gas lease sale. *See* BLM, *Oil and Gas Lease Parcel Sale, Environmental Assessment DOI-BLM-MT-0010-2013-0022-EA*, at 73 (July 2013), *available at* http://www.blm.gov/pgdata/etc/medialib/blm/mt/blm_programs/energy/oil_and_gas/leasing/lease_sales/2013/october/7-24-13_post_docs.Par.9918.File.dat/Finial_Billings_EA.pdf (excerpts attached)).

SUWA also noted that the social cost of carbon analysis is not only to be used for rulemaking but also during the NEPA process and must be considered by all federal agencies. *See High Country Conservation Advocates v. U.S. Forest Serv.*, 2014 WL 2922751, --- F.Supp.2d ---, at *9 (D. Colo. 2014); *see also* 40 C.F.R. § 1508.8(b) ("Effects includes ecological . . . economic, social . . . whether direct, indirect, or cumulative."). "The critical importance of the subject . . . tells me that a 'hard look' has to include a 'hard look' at whether th[e] [EPA's social cost of carbon formula], however imprecise it might be, would contribute to a more informed assessment of the impacts than if it were simply ignored." *High Country Conservation Advocates v. U.S. Forest Serv.*, 2014 WL 2922751 at *11. Moreover, the EPA has "expressed

support for [use of its formula for social cost of carbon] in other contexts.” *High Country Conservation Advocates*, 2014 WL 2922751 at *9.

In *High Country Conservation Advocates*, the court specifically rejected the argument that a federal agency need not analyze the impacts from carbon emissions and other greenhouse gases because “such an analysis is impossible.” 2014 WL 2922751 at*9. Specifically, the court held that a tool was available to analyze the impacts from the release of these pollutants: EPA’s social cost of carbon formula. *Id.* This formula is “designed to quantify a project’s contribution to costs associated with global climate change” and was “created with the input of several departments, public comments, and technical models.” *Id.* It was therefore arbitrary and capricious for the federal agency to not take a hard look at whether the use of the formula may result in a more informed assessment. *Id.* at 10.

In the present case, BLM ignored SUWA’s comments and failed to respond to them, in violation of NEPA and the APA. *Compare* EA at 66 (Comment 50 – directing the reader to the IDT Checklists for the Moab and Monticello field offices), *with id.* at 133-34, 151-52 (no discussion, response, or consideration of the social cost of carbon or other related comments). As with other issues discussed herein, BLM’s comments in the IDT Checklists are dated *prior* to the receipt of SUWA’s comments or the release of the Draft EA. *See, e.g., id.* at 133, 151. Furthermore, BLM argues that it is impossible to analyze potential impacts to climate change because the agency “does not have the ability to associate a BLM action’s contribution to climate change with impacts in any particular area.” EA at 134; *id.* at 151 (same). BLM also states that “[i]t is currently not feasible to know with certainty the net impacts from leasing and any potential exploration on climate.” *Id.* at 134; *id.* at 151 (same). This is the *exact* argument rejected in *High County Conservation Advocates*. *See, e.g.,* 2014 WL 2922751 at *9-10. It is

possible and feasible for BLM to calculate the social cost of carbon using the formula created by EPA. However, the agency has arbitrarily chosen to stick its head in the sand rather than lace-up its boots and get to work on the difficult – but feasible - task of calculating the social cost of the proposed oil and gas lease sale. BLM therefore took no look rather than a “hard look” at SUWA’s comments, including the social cost of carbon, when it failed to determine whether the social cost of carbon formula may have helped the agency prepare a more informed assessment.

All of the challenged lease parcels must then be deferred until BLM properly analyzes the direct, indirect, and cumulative effects, including “social” and “economic,” to the environment from the proposed action. *See* 40 C.F.R. § 1508.8(b); *see Oregon Natural Desert Ass’n v. BLM*, 625 F.3d 1092, 1121 (9th Cir. 2008) (in reviewing an agency’s decision, courts will not “defer to a void.”).

VIII. Significant New Air Quality Information

On November 25, 2014, the U.S. Environmental Protection Agency (EPA) proposed that the national ambient air quality standard for ground-level ozone be strengthened. *See* EPA, Proposed Rule, National Ambient Air Quality Standards for Ozone (Nov. 25, 2014), *available at* <http://www.epa.gov/groundlevelozone/pdfs/20141125proposal.pdf>(attached). The EPA is proposing that the limit on ground-level ozone pollution be dropped from a maximum eight-hour average of 0.075 parts per million (ppm) to a new limit between 0.070 and 0.065 ppm. *See id.* The BLM has not considered how this proposed change will affect its oil and gas management.

The BLM is required to ensure that activities it authorizes do not violate national ambient air quality standards. *See* 43 C.F.R. § 2920.7(b)(3) (requiring that BLM “land use authorizations shall contain terms and conditions which shall ... [r]equire compliance with *air ... quality*

standards established pursuant to applicable Federal or State law”) (emphasis added); *see also* 43 U.S.C. § 1712(c)(8) (requiring BLM in land use plans – which would therefore require implementation in daily management – to “provide for compliance with applicable pollution control laws, including State and Federal air ... pollution standards or implementation plans”).

The BLM has never considered whether oil and gas development in this area will comply with the proposed standards discussed above. Given the current level of ozone in the area it is possible that development may not take place without violating these standards. Ground-level ozone is formed from precursor emissions—volatile organic compounds (VOCs) and nitrogen oxides (NO_x)—and its concentrations are affected by temperature, sunlight, wind, and other weather factors. *See* 73 Fed. Reg. at 16,436, 16,437 (Mar. 27, 2008). In the Uinta Basin, for example, oil and gas development produces the equivalent VOC emissions of approximately 100 million automobiles. *See* D. Helmig, *et al.*, “Highly Elevated Atmospheric Levels of Volatile Organic Compounds in the Uintah Basin, Utah,” *Environmental Science & Technology* (attached). These precursor emissions originate from a wide variety of sources, both mobile and stationary. *Id.* During oil and gas development, ozone precursors are emitted from construction and maintenance vehicles, glycol dehydrators, compressors and flaring of gas. *See* Moab RMP at 4-17 to -18, 4-27 to -28; Letter from Larry Svoboda, EPA, to Brent Northrup, BLM Moab Field Office 2 (Sept. 12, 2008) (attached). EPA has notified BLM of its concerns that ozone emissions will increase due to current oil and gas development in Utah. *See* Letter from Larry Svoboda, EPA, to Selma Sierra, BLM Vernal Field Office 2 (Sept. 23, 2008) (attached); Letter from Larry Svoboda, EPA, to Selma Sierra, BLM Price Field Office 3 (Oct. 2, 2008) (attached).¹¹

¹¹ While the EA does contain one air quality-related stipulation, this does nothing to address much of the ozone pollution production from oil and gas development. *See* EA at 108-09.

In 2008, Canyonlands National Park recorded ozone levels right at the NAAQS limit: 0.075 parts per million. NPS, Memorandum to Director, Utah BLM State Office 2 (Nov. 24, 2008) at 2; *see also* Moab RMP at 4-507. The EA contains older data but shows that the three-year average for this area was right at 0.070 ppm from 2005 to 2007, the EA's most recent three-year period. *See* EA at 30. Oil and gas development has contributed to these high ozone levels and additional development will only exacerbate this pollution. *See, e.g.*, Moab RMP at 3-12.

In fact, a federal court has already indicated that the Moab RMP lacks sufficient air quality analysis to support an oil and gas lease sale under the current ozone standard, let alone the new standard. *See Southern Utah Wilderness Alliance v. Allred*, 2009 WL 765882, 1:08cv2187 RMU (Jan. 17, 2009) (granting a temporary restraining order preventing the issuance of oil and gas leases from the Moab Field Office, among other places, because it was likely that the Moab RMP did not adequately consider impacts to this resource in the Moab RMP). The Monticello RMP relies on this same analysis and therefore suffers from the same flaws.

Thus, BLM has not taken a hard look at whether it will be able to approve oil and gas development under the new proposed ozone standards. Given the existing levels of ozone pollution in the area, any contributions to ozone pollution may exceed federal standards, something BLM may not permit.

IX. The EA Failed to Take a Hard Look at Water Quality

The BLM failed to take a hard look at the direct, indirect, and cumulative impacts to water quality/resources when the agency failed to consider and respond to SUWA's substantive

BLM's stipulation only applies to internal combustion field engines with less than 300 horsepower but more than 40 horsepower. *Id.* BLM's stipulation does nothing to address the emissions from glycol dehydrators, gas flaring, or construction or maintenance vehicles. In addition, BLM has not evaluated whether this stipulation will even serve to limit ozone pollution.

Southern Utah Wilderness Alliance
December 15, 2014
Re: Protest – February 17, 2015, Oil and Gas Lease Sale

concerns on this issue. *See* SUWA's Comments on Draft EA at 8-14. As a result, lease parcels 65, 87, and 90, should be removed from the lease sale or NSO stipulations attached that apply to the entire surface area of each lease, respectively.

The EA does not respond to concerns raised in SUWA's comments regarding the Moab and Monticello field offices' repeated failure to analyze impacts to water quality/resources at the site-specific project proposal stage or to inspect the majority of "high risk" oil and gas wells in Utah. *Compare* SUWA's Comments on Draft EA at 10, 14, *with* EA at 62-63 (BLM's response to SUWA's water quality comments), *and id.* at 136-37, 163-64 (BLM's IDT Checklist for water quality/resources). In fact, as it did with other resources discussed herein, BLM appears to have not even considered many of our comments and concerns regarding water quality/resources. The IDT Checklist, for example, is word-for-word the *exact same* in the Draft EA and final EA. *Compare* Draft EA at 114-15 (Moab field office IDT Checklist), *and id.* at 140-41 (Monticello field office IDT Checklist), *with* EA at 136-37 (Moab field office IDT Checklist), *and id.* at 163-64 (Monticello field office IDT Checklist). The *final* IDT Checklists in the EA are dated August 19, 2014, and July 23, 2014, respectively – *months prior to the release of the Draft EA, or receipt of SUWA's substantive comments.* *See* EA at 136, 163. This fact, combined with BLM's failure to address SUWA's comments, clearly indicates that BLM did not take a hard look at this issue, in violation of NEPA.

As noted in our comments, the Moab and Monticello field offices typically do not analyze impacts to water quality/resource when they prepare environmental assessments for site-specific oil and gas exploration and development proposals, and in fact; neither field office has analyzed impacts to this important resource in *any* oil or gas environmental assessment prepared in the past two years. *See* SUWA's Comments on Draft EA at 10 (citing numerous NEPA

documents prepared by either the Moab or Monticello field offices that did not analyze impacts to water quality/resources). Despite this fact, BLM continues to assert that the necessary water quality analysis will be conducted in response to future site-specific project proposals. *See, e.g.*, EA at 62. There is however no evidence in the EA or in the agency's actual on-the-ground application of NEPA to support this assertion. Because leasing is the point that BLM engages in an irreversible commitment of resources it must consider this important aspect of the issue now.

Finally, the BLM's analysis and final conclusion to offer parcels 65, 87, and 90, would have been substantially different if BLM had taken a hard look at our comments and the issues raised therein. Primarily, a detailed analysis of impacts to water quality/resources would have been included in the EA. This may have resulted in the removal or deferral of parcels in or near sensitive environments or near cultural resources, such as parcels 65, 87, 90.

X. The EA Failed to Take a Hard Look at Impacts to the Alkali Ridge ACEC

The EA failed to take a hard look at the direct, indirect, and cumulative impacts to the Alkali Ridge ACEC. Lease parcels 85, 87, and 90, must then be removed from the upcoming sale, or NSO stipulations attached for the entire area of each respective parcel.

The IDT Checklist for the Monticello field office determined that the Alkali Ridge ACEC and in particular, the cultural resources present therein, will not be impacted to such a degree that detailed analysis of such impacts was required. *See* EA at 63 (response to SUWA's ACEC comments); *id.* at 151; *see also* Monticello ROD at 16, 31 (BLM must prevent irreparable harm to important cultural values in the Alkali Ridge ACEC); Monticello RMP at 4-365-66 (same). In arriving at this determination, the Monticello specialists noted, "that the Monticello RMP specifies the Alkali Ridge ACEC as available for oil and gas leasing subject to Controlled Surface Use (CSU)." EA at 63. In other words, BLM determined detailed analysis was not

necessary – not because the agency took a hard look at whether significant impacts may occur to cultural resources – but because the area was left open to future oil and gas leasing in the governing RMP. This determination is arbitrary and capricious.

The decision in the Monticello RMP to make the Alkali Ridge ACEC “available” for future oil and gas leasing did not eliminate BLM’s separate and independent obligation to perform detailed analysis in response to future proposed actions, such as the EA. The Monticello RMP is a programmatic document, designed to provide a thirty-thousand foot view of the lands managed by the Monticello field office and assess and disclose generalized impacts. Clearly, preparation of the RMP and accompanying EIS did not eliminate BLM’s obligation to comply with NEPA’s hard look requirement in subsequent environmental analyses. Here, the Monticello RMP requires that the Alkali Ridge ACEC be managed to “ensure that [cultural and historic] resources [are] permanently maintained for . . . interpretation.” Monticello RMP at 4-366. The protection and management of these resources must be given “priority.” Monticello ROD at 31; *see also* 43 U.S.C. § 1712(c)(3) (BLM must “give priority . . . to the protection of [ACECs]”). By failing to adequately understand, analyze and disclose the impacts that leasing will have to the specific cultural and historic resources within the ACEC, BLM has violated NEPA’s hard look mandate, as well as failed to give priority to the protection of cultural and historic resources.

Furthermore, BLM determined that cultural and historic resources would not be affected to a degree that detailed analysis was required, *even though the agency has little to no idea of the extent and scope of the resources present in the area. See, e.g.,* EA at 53 (“but also know that the majority of archeological sites are likely as yet unrecorded.”). The burden is on BLM to take a hard look at the problem, as well as “to make a reasonable and good faith effort” to identify cultural resources that may be affected by this undertaking, *see* 36 C.F.R. § 800.4(b)(1), and as

discussed *supra*, BLM failed to do either. *See* Section III. If the agency had complied with this regulatory requirement, many more cultural and archeological sites, including sites that may qualify for placement in the National Register, likely would have been discovered in light of the acknowledged high density of sites already discovered through limited research. *See, e.g.*, Monticello RMP at 3-143 (“The cultural resources located in this area are regionally and nationally significant and include a large number of high density cultural sites of the Basketmaker and Pueblo cultures.”). The agency therefore cannot reasonably conclude that detailed analysis is unwarranted based on the fact that BLM has little to no idea what cultural and historic resources are present in the parcels offered for leasing in the Alkali Ridge ACEC.

XI. BLM Has Not Complied with Key Parts of IM 2010-117

The EA does not comply with several important and mandatory aspects of Instruction Memorandum No. 2010-117, Oil and Gas Lease Reform – Land use Planning and Lease Parcel Review (attached) and thus BLM should defer the thirteen protested parcels. The IM sets forth a non-exhaustive list of considerations “that should be taken into account when determining the availability of parcels for lease.” Included in this list are the following points:

- “In undeveloped areas, non-mineral resource values are greater than potential mineral development values.” The IM also notes that “[t]his consideration is a policy decision that is not dependent upon the economic values that may be assigned to competing resources.”
- “The topographic, soils, and hydrological properties of the surface will not allow successful final landform restoration and revegetation in conformance with the standards found in Chapter 6 of the Gold Book, as revised.”
- “Leasing would result in unacceptable impacts to the resources or values of any unit of the National Park Service.”

IM 2010-117 at 10; *see also id.* at 8 (“The IDPR Team will ensure [these] steps are performed for the review of parcels in each lease sale. . . . Managers will ensure team members have

sufficient time to conduct these reviews.”). BLM’s decision to proceed with leasing without first completing these reviews and making a record that it did so is arbitrary and capricious.

With regard to the first and second point, there is no record that BLM considered the non-mineral resource values, as well as the revegetation and reclamation potential, of parcels 38, 57, 58, 59, 65, 91, or 111. BLM acknowledges that each of these parcels is located in a remote, rugged and roadless area. EA at 36, 42; *see also id.* at 75 (citing Moab and Monticello PRMP/FEIS and ROD). However, rather than evaluate these resource values (e.g. wildlife, undisturbed soils, recreation values, wilderness values, etc.), BLM asserts that the decision in the Moab RMP not to manage these areas to protect those resources is determinative. *See id.* IM 2010-117 makes clear that this is not so; BLM cannot simply stand pat on previous evaluations and ignore the value of these areas. Its failure to consider this important aspect of the problem is arbitrary and capricious.

With regard to the last point, the National Park Service’s comments on the EA are clear that the Service believes leasing without protective stipulations – as unopposed to unenforceable lease notices – would result in unacceptable impacts to dark night skies and soundscape, resource values that the Service considers important. *See* Letter from Superintendent, Southeast Utah Group, National Park Service to Manager, Canyon Country District, BLM (Oct. 20, 2014). BLM’s response to these comments is to quibble over its belief about the importance of these values and cite to decisions made in the RMP that, it believes, require leasing to continue. EA at 56-58 (response to comments). Again, IM 2010-117 is unambiguous that BLM cannot simply point to high level decisions to guide its decision making at the site-specific leasing stage.

In addition, and as noted elsewhere in this Protest, BLM apparently did not conduct site visits for key parcels in the Book Cliffs (e.g., UT0215-057, UT0215-058, UT0215-059, UT0215-

Southern Utah Wilderness Alliance

December 15, 2014

Re: Protest – February 17, 2015, Oil and Gas Lease Sale

091, UT0215-111), instead relying on aerial photography and/or review of these parcels from afar. EA at 10. One place where this failure to conduct an on-the-ground review manifested itself is in the erroneous descriptions of these five parcels in BLM's Class I inventory. Class I Inventory at 4-5. The Inventory states that these parcels are located in the "barren talus slopes of the Book Cliffs escarpment which is most devoid of vegetation." Class I Inventory at 4-5. SUWA has shown that in fact these parcels are heavily vegetated with pinyon-juniper and conifers and contain a number of intermittent and perennial streams. *See supra* Section III.b. As IM 2010-117 states that "[s]ite visits are highly recommended in any case involving new leasing in an area not already under oil and gas development." BLM's apparent failure to conduct a site visit to all or some of these parcels means that leasing should be deferred to allow that step to occur.

REQUEST FOR RELIEF

SUWA respectfully requests the following appropriate relief: (1) the withdrawal of the thirteen protested parcels from the February 17, 2015, Competitive Oil and Gas Lease Sale until such time as the agency has complied with NEPA, FLPMA, the NHPA, and other federal laws, or, in the alternative, (2) withdrawal of the thirteen protested parcels until such time as the BLM attaches unconditional no surface occupancy stipulations to all protested parcels.

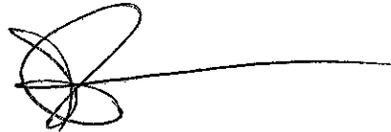
Southern Utah Wilderness Alliance

December 15, 2014

Re: Protest – February 17, 2015, Oil and Gas Lease Sale

This protest is brought by and through the undersigned on behalf of SUWA. The members and staff of SUWA reside, work, recreate, or regularly visit the areas to be impacted by the proposed lease sale and therefore have an interest in, and will be adversely affected and impacted by, the proposed action.

DATED: December 15, 2014



Stephen H.M. Bloch
Landon Newell
David Garbett
Southern Utah Wilderness Alliance
425 East 100 South
Salt Lake City, Utah 84111