



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



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JUN 30 2010

DECISION

Center for Native Ecosystems : Protests to the Inclusion of Certain
 Attn: Megan Corrigan : Parcels in the November 15, 2005,
 1536 Wynkoop, Suite 303 : August 15, 2006, November 21, 2006,
 Denver, CO 80202 : and June 5, 2008 Competitive Oil and
 : Gas Lease Sales
 :

**PROTESTS PARTIALLY DENIED AS TO PARCELS
 WITHIN THE PRICE FIELD OFFICE**

The Bureau of Land Management (BLM) provided proper notice to the public that certain parcels of land would be offered in competitive oil and gas lease sales scheduled for November 15, 2005 (98 parcels), August 15, 2006 (216 parcels), November 21, 2006 (280 parcels), and June 5, 2008 (13 parcels). During the protest period for each of the four lease sales, the Center for Native Ecosystems (CNE) submitted timely written protests to the inclusion of certain parcels in each sale. This decision addresses only that portion of each CNE protest concerning the inclusion of parcels located on public lands administered by the BLM's Price Field Office (PFO).

PFO Parcels Addressed in this Decision

The above-referenced four CNE protests covered a total of 40 parcels managed by the PFO. Twenty-seven of the protested parcels were either deferred by errata prior to the respective lease sale or subsequently withdrawn. This decision addresses the four CNE protests as they pertain to the remaining 13 parcels, as discussed below.

CNE protest concerning the November 15, 2005 lease sale.

In its protest concerning the November 15, 2005 lease sale, CNE protested the inclusion of the following seven parcels managed by the PFO:

UT1105-055	UT1105-062	UT1105-092
UT1105-059	UT1105-063	
UT1105-061	UT1105-091 (UTU84146)	

Of these seven parcels, six were deferred by an errata notice dated November 9, 2005, (UT1105-055, UT1105-059, UT1105-061, UT1105-062, UT1105-063 and UT1105-092). Consequently, the CNE protest as it concerns these six parcels is denied as moot and this

decision addresses the remaining PFO parcel protested by CNE, parcel UT1105-091.

CNE protest concerning the August 15, 2006 lease sale.

In its protest concerning the August 15, 2006 lease sale, CNE protested the inclusion of the following five parcels managed by the PFO:

UT0806-251	UT0806-262	UT0806-264
UT0806-257	UT0806-263 (UTU84935)	

Of these five parcels, parcel UT0806-264 was deferred by errata notice dated August 11, 2006. The bid offer for parcel UT0806-262 was later rejected and the parcel was removed from the sale. Thus, the CNE protest as it concerns parcels UT0806-264 and UT0806-262 is denied as moot. Further, the CNE protest as it concerns parcels UT0806-251 and UT0806-257 was denied by BLM's decision dated September 21, 2007. Consequently, this decision addresses the remaining PFO parcel protested by CNE, parcel UT0806-263.

CNE protest concerning the November 21, 2006 lease sale.

In its protest concerning the November 21, 2006 lease sale, CNE protested the inclusion of the following 26 parcels managed by the PFO:

UT1106-132 (UTU85149)	UT1106-161	UT1106-195 (UTU85191)
UT1106-133 (UTU85150)	UT1106-163	UT1106-196 (UTU85192)
UT1106-136 (UTU85153)	UT1106-167 (UTU85323)	UT1106-202 (UTU85195)
UT1106-151 (UTU85161)	UT1106-178 (UTU85177)	UT1106-203 (UTU85196)
UT1106-153 (UTU85163)	UT1106-180 (UTU85179)	UT1106-235 (UTU85207)
UT1106-157	UT1106-183 (UTU85185)	UT1106-236 (UTU85208)
UT1106-158	UT1106-184 (UTU85182)	UT1106-237 (UTU85209)
UT1106-159	UT1106-185 (UTU85183)	UT1106-239
UT1106-160	UT1106-193 (UTU85189)	

Of these 26 parcels, parcels UT1106-157 through UT1106-161, UT1106-163, and UT1106-239 were deferred by errata notice dated November 14, 2006, and parcels UT1106-193, UT1106-195 and UT1106-196 were subsequently withdrawn. Thus, the CNE protest as it concerns these 10 parcels is denied as moot. The CNE protest as it concerns parcels UT1106-151, UT1106-178, UT1106-183, UT1106-184, UT1106-185, UT1106-202 and UT1106-203 was denied by BLM's decision dated September 21, 2007. Consequently, this decision addresses the CNE protest as it pertains to parcels UT1106-132, UT1106-133, UT1106-136, UT1106-153, UT1106-167, UT1106-180, UT1106-235, UT1106-236, and UT1106-237.

CNE protest concerning the June 5, 2008 lease sale.

In its protest concerning the June 5, 2008 lease sale, CNE protested the inclusion of the following two parcels managed by the PFO:

UT0508-002 (UTU86170)	UT0508-003 (UTU86171)
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This decision addresses the CNE protest as it pertains to parcels UT0508-002 and UT0508-003.

Summary Parcel List

November 2005:

UT1105-091 (UTU84146)

August 2006:

UT0806-263 (UTU84935)

November 2006:

UT1106-132 (UTU85149)	UT1106-153 (UTU85163)	UT1106-235 (UTU85207)
UT1106-133 (UTU85150)	UT1106-167 (UTU85323)	UT1106-236 (UTU85208)
UT1106-136 (UTU85153)	UT1106-180 (UTU85179)	UT1106-237 (UTU85209)

June 2008:

UT0508-002 (UTU86170)	UT0508-003 (UTU86171)
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Decision

CNE makes only general allegations, unsupported by specific facts, in each of its four protests. For example, CNE makes general allegations regarding the land use plan revision process in the PFO that was underway at the time of the respective protest, nominated Areas of Critical Environmental Concern, purported "new information" related to the white-tailed prairie dog, purported "new information" related to the Heart of the West Wildland Network Design, coordination with the U. S. Fish and Wildlife Service, sensitive species, and notices and stipulations.¹ However, no protest attempts to explain how any of the general allegations may apply to any of the protested parcels.²

On September 30, 2009, separate decisions were issued denying CNE's protests to the BLM's March 24, 2009 and June 23, 2009 lease sales on the grounds that those protests included only conclusory allegations unsupported by specific facts. The four CNE protests that are the subject of this decision suffer from the same fundamental flaws and are hereby denied for the same reason.

As explained in the September 30, 2009 decisions, the BLM is under no obligation to sort through a protestant's laundry list of alleged errors and attempt to discern which alleged errors the protestant intended to invoke for a particular parcel. Such an unduly burdensome and inefficient process would unreasonably divert the time and resources that the BLM otherwise needs to manage the public lands as mandated by Congress. Also noted in that decision was the fact that CNE has frequently availed itself of BLM's protest procedures as well as the administrative appeal process before the Interior Board of Land Appeals, and that its respective protests recited that CNE has a well-established history of participation in BLM planning and management activities, and its mission includes participating in "administrative processes" and "legal actions" and, consequently, CNE should be well aware of its responsibilities in submitting a protest to the inclusion of parcels in an oil and gas sale.

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

¹ The general allegations in the four protests appear to be largely boilerplate used in other protests CNE has made to the BLM.

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

or notices do not obviate the allegations. Failure to comply with any of the foregoing may result in the summary dismissal of the protest.

In conclusion, for the above-stated reasons, the four CNE protests are denied as they pertain to the inclusion of parcel UT1105-091 in the November 15, 2005 lease sale, parcel UT0806-263 in the August 15, 2006 lease sale, parcels UT1105-132, UT1105-133, UT1105-136, UT1105-153, UT1105-167, UT1105-180, UT1105-235, UT1105-236, and UT1105-237 in the November 21, 2006 lease sale, and parcels UT0508-002 and UT0508-003 in the June 5, 2008 lease sale. Resolution of other protests may dictate whether or not the lease for a particular parcel will be issued.

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

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

Standards for Obtaining a Stay

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

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

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

Sincerely,



Selma Sierra
State Director

Attachment

1. Form 1842-1 (2pp)
2. List of Purchasers

cc: Office of the Solicitor, Intermountain Region, 125 So. State St., Suite 6201, SLC, UT 84138

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
- AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

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- 1. NOTICE OF APPEAL.....** A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
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- 2. WHERE TO FILE NOTICE OF APPEAL.....** Bureau of Land Management, Utah State Office, P. O. Box 45155, Salt Lake City, Utah 84145-0151 or Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101
WITH COPY TO SOLICITOR... and
Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111
-
- 3. STATEMENT OF REASONS** Within 30 days after filing the Notice of Appeal, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR..... and
Regional Solicitor, Room 6201, 125 South State Street, Salt Lake City, Utah 84111
-
- 4. ADVERSE PARTIES.....** Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.
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- 5. PROOF OF SERVICE.....** Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
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- 6. REQUEST FOR STAY.....** Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

LIST OF PURCHASERS

Alker Exploration, LLC
5360 Vine Hill Road
Sebastopol, CA 95472

~~Baseline Minerals, Inc.~~
518 17th Street #950
Denver, CO 80202

Bill Barrett Corporation
1099 18th Street, Suite 2300
Denver, CO 80202

Clint W. Turner
8438 South 1275 East
Sandy, UT 84094

Craig Settle
5897 South Fulton Way
Greenwood Village, CO 80111

Delta Petroleum Corp.
370 17th Street, #4300
Denver, CO 80202

Green Two, Inc.
730 17th Street, #450
Denver, CO 80202

International Petroleum LLC
4834 South Highland Dr. #200
Salt Lake City, UT 84117

Retamco Operating Inc.
3301 Stonewall Land
Billings, MT 59102

SonJa V. McCormick
1481 South Preston Street
Salt Lake City, UT 84108

Turner Petroleum Land Services Inc.
7026 South 900 East, Suite B
Midvale, UT 84047