TROUT UNLIMITED

Wyoming Office
315 Main Street, Suites 1-11
Lander, WY 82520
307-332-6700
307-332-9299 fax

To:	Don Simpson, Acting Director, BLM	From:	Cathy Purves
Fax:	307-775-6203	Pages:	24 pages including cover
Phone:		Date:	July 21, 2008
Re:	August 5, 2008 Oil and Gas Lease Protest	cc:	Lance Porter, Rock Springs Field Manager

Comments:

Don,,

Please find attached a copy of Trout Unlimited's protest to the upcoming sale of oil and gas lease parcels in Wyoming.

Thank you,

Cathy Purves

307-332-6700 ext. 10

2008 JUL 21 775-6203
RECEIVED
DOI - BLM
WYOMING S.O.

facsimile

1 08 03:36p

TROUT UNLIMITED

July 21, 2008

Via Fax (307) 775-6203
And Overnight Mail

Don Simpson, Acting Director
Bureau of Land Management
Wyoming BLM State Office
5353 Yellowstone Road
Cheyenne, WY 82009

RE: Protest for August 5, 2008 Competitive Oil & Gas Lease Sale

Specific Protests to Parcel Numbers: WY-0808-156; WY-0808-157; WY-0808-158; WY-0808-159; WY-0808-164; WY-0808-165; WY-0808-161; WY-0808-162; WY-0808-163; WY-0808-086; WY-0808-093; WY-0808-094; WY-0808-101; WY-0808-102; WY-0808-105; WY-0808-129; WY-0808-144; WY-0808-145; WY-0808-168; WY-0808-002; WY-0808-003; WY-0808-007.

add parcel #4 see page 15

Dear Mr. Simpson,

Trout Unlimited respectfully submits our protests, pursuant to 43 C.F.R. §§ 4.450-2 and 3120.1-3, the Bureau of Land Management's oil and gas lease sale offerings of certain parcels in Wyoming scheduled to be offered at the August 5, 2008 Competitive Oil and Gas Lease Sale.

Trout Unlimited (TU) specifically protests the individual parcels identified above based on unique and sensitive qualities that these properties provide for Wyoming's wildlife and fisheries resources. TU believes these parcels should not be offered for the following reasons, which will be discussed further in our comments:

- The proposed parcels offered for sale are located within unique and crucial wildlife habitats, migration corridors, and contain wildlife and fisheries species that are threatened, endangered, and/or are sensitive.
- The BLM's consideration of the direct, indirect and cumulative impacts to wild and native fish and their watersheds as required by the National

Jul 21 08 03:36p

Environmental Policy Act (42 U.S.C. § 4321, et seq) is either outdated, inadequate or lacking a discussion of significant new information since preparation of several Resource Management Plans..

- Parcels in this lease sale are located in areas that BLM offices have recognized and designated as special management areas restricting surface use, with specific NSO and avoidance language outlined in the BLM's RMPs.
- Several parcels offered in this lease sale contain streams and rivers that support sensitive Colorado River cutthroat trout populations, including conservation populations which would be threatened by oil and gas activities.
- Several parcels in this lease sale are located in groundwater aquifer recharge zones and require analysis and cumulative impact assessments prior to any sale.
- The lack of consideration and vulnerability analysis from climate change and its risk factors to wildlife and fisheries habitat should be included in any analysis prior to any sale.
- The BLM's analysis of the impacts associated with coalbed methane development also must be updated in light of new significant information that is available.
- The BLM's lack of analysis of the overlapping impacts associated with different extractive energy projects (including oil, uranium, oil shale and geothermal) projected to occur within many of these lease parcel locations.
- Air quality issues that have the potential to impact soils, plants, water, wildlife, fisheries, livestock and human health without proper air quality assessments and updated air quality monitoring equipment and analysis.
- The BLM's consideration and analysis of the economic impacts to the outdoor recreation industry, which includes hunting, fishing, tourism and local communities, is inadequate as it applies to several of the lease parcels which are being offered in high recreation use areas.

Interests of the Protesting Party

Trout Unlimited is a private, non-profit conservation organization that has more than 155,000 members nationwide dedicated to conserving, protecting and restoring North American's trout and salmon fisheries and their watersheds. Since 1959, TU has dedicated staff and volunteers toward the protection of sensitive ecological systems necessary to support robust native and wild trout and salmon populations in their respective range. TU recognizes that the value of public lands is unparallel in providing habitat to coldwater fisheries, drinking water and wildlife habitat. TU's conservation program includes public lands and recognizes that public lands play a vital role in protecting and securing habitat for the survival and restoration of wildlife and fisheries. TU's conservation program recognizes that anglers alone don't utilize public lands and that many people who fish on public lands also hunt. TU therefore believes that actions taken on public lands are ultimately reflected in the quality of fish and wildlife habitat and populations.

p.3 Jul 21 08 03:36p

In Wyoming, TU has more than 1,300 members and 13 state chapters whose members actively utilize and enjoy the resources of the many streams and rivers and their respective watersheds and those values these watersheds provide, including clean water, clean air, fishing, hunting, outdoor recreation and wildlife viewing opportunities. TU members are active participants in a variety of outdoor recreational and business pursuits within and near most of these lease sale parcels. TU believes the impacts from the development and production of these oil and gas leases will adversely affect our members, as well as other non-members who hunt, fish, recreate and do business in and around lease sale areas.

Applicable Statutory, Regulatory and Executive Requirements

The BLM has failed to consider important aspects of protecting those areas within many of these lease parcels and, in particular, areas which have been designated special management areas in their RMP's and have specifically defined surface use protection measures.

A. Resource Management Plans Protect Certain Unique Areas with Specific Restrictions

Several of the lease parcels in this sale (WY-0808-156, 157, 158, 159, 164, and 165) are located within the Rock Springs BLM Field office and are under jurisdiction of the Green River Resource Management Plan of 1997. The BLM made a commitment to this resource area when it approved the Record of Decision (ROD) that contained strong resource protection language for several unique and special areas in this region (the Currant Creek Watershed, Sage Creek Watershed, Red Creek Watershed, Greater Red Creek ACEC, and two Special Management Areas).

Impacts associated with oil and gas development on crucial big game winter habitat and migration, on sage grouse populations, and on fisheries and aquatic habitats are well documented in scientific literature. The BLM has not fully analyzed these impacts in conjunction with the lease sale and the unique qualities of this sensitive ecosystem in the southwestern portion of Wyoming will be placed at risk. Conservation populations of Colorado River cutthroat trout (CRCT), nationally important trophy big game management areas, limited populations of the sensitive midget faded rattlesnake, declining and potentially listed populations of sage grouse and pygmy rabbits, and crucial winter range for mule deer and elk all contribute to this distinctive and irreplaceable wildlife assemblage.

TU respectfully requests that the lease parcels within this geographic area be pulled from the sale due to the overwhelming sensitivity of the numerous wildlife and fisheries resources dependent on this ecosystem.

Jul 21 08 03:37p p.4

B. Executive Order 13443 Mandates Consideration of Wildlife and Outdoor Recreation

On August 16, 2007, President Bush signed Executive Order 13443, which directs federal agencies to "...manage wildlife habitat on public lands in a manner that expands and enhances hunting opportunities, including through the use of hunting in wildlife management planning." (E.O. 13443, *Facilitation of Hunting Heritage and Wildlife Conservation,* § 2(c) (August 16, 2007). The Executive Order further requires that agencies "...evaluate the effect of agency actions on trends in hunting participation and, where appropriate, to address declining trends, implement actions that expand and enhance hunting opportunities for the public" (*Id.* § 2(a).

A draft report recently released by the Sporting Conservation Council (July 2008), which is the result of the E.O. 13443, has recognized that energy development and its' current fast pace places wildlife habitats in the West in an uncertain status, especially for the protection of wildlife habitat in the future. The report identified specific goals including one that states the BLM should consider temporary deferral of energy leasing to preserve options for game/wildlife species, populations and habitat conservation.

C. NEPA Requires that the BLM Consider All Relevant Factors

NEPA requires that a federal agency decision, such as a decision by the BLM to offer parcels for mineral lease, be based on all relevant factors and be supported by the facts in the record. *See Penaco Energy, Inc. v. U.S. Dep't of the Interior*, 377 F.3d 1147, 1156 (10th Cir. 2004). An agency decision is arbitrary and capricious if:

> The agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs contrary to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

Colorado Envtl. Coalition v. Dombeck, 185 F.3d 1162, 1167 (10th Cir. 1999) (quoting *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983)).

TU believes the BLM has failed to consider important aspects of protecting the vicinities of crucial wildlife habitat and important streams and river segments located in many of these parcels offered for sale, and therefore, that the decision to lease certain parcels in the immediate environment of these unique systems is arbitrary and capricious. Further, TU believes the NEPA documents on which the BLM is relying highlight significant impacts to fisheries and wildlife as a result of mineral development (Green River RMP in particular).

p.5

Jul 21 08 03:37p

D. NEPA Requires Supplemental Environmental Analysis When New Information is Available

The "fundamental objective" of NEPA is to ensure that a federal agency "will not act on incomplete information only to regret its decision after it is too late to correct." *Southern Utah Wilderness Alliance v. Norton*, 457 F. Supp.2d 1253, 1261 (D. Utah 2006) (quoting *Marsh v. Oregon Natural Resources* Council, 490 U.S. 360, 374 (1989)) (citation omitted). Therefore, "[i]f there remains a 'major federal action' to occur, and if ... new information is sufficient to show that the remaining action will 'affect the quality of the human environment' ... to a significant extent not already considered, a supplemental EIS must be prepared." *Id.* at 1264 (quoting *Marsh v. Oregon Natural Resources Council,* 490 U.S. 360, 371(1989)). Specifically, an "agency must be alert to new information that may alter the results of its original environmental analysis, and continue to take a 'hard look' at the environmental effects of [its] planned actions." *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 557 (9th Cir. 2000).

Oil and gas development continues to increase in Wyoming at a pace and to the degree that was not anticipated back when the BLM developed their land use plans. In deciding to lease these parcels for the August 5 lease sale, the BLM has relied on outdated environmental analyses in some locations where these parcels are located. Considerable scientific research and literature has accumulated recently with respect to wildlife and fisheries and energy development's impacts to habitats. This data cannot be ignored by the BLM. Further, where the BLM has enacted specific protection measures in sensitive habitats in their RMP's, they now appear to be ignoring these ROD specifications and this, too, constitutes a need for further NEPA analysis.

The Wyoming Game and Fish Department (WGFD) has significant concerns about the long-term and cumulative impacts that would occur in some of the more sensitive habitat areas where parcels are proposed for the August 5 lease sale. In their January 30, 2008, and their June 6, 2008, letters to the Rock Springs BLM field office regarding the proposed Devon Energy Baxter Natural Gas Exploratory Proposal, and the Rubicon 3D Seismic Proposal, respectively, the WGFD expressed strong concerns about the long-term and cumulative impacts that would result from development in the south Rock Springs areas around Little Mountain and Pine Mountain areas. The GRRMP of 1997 recognized the importance of protecting this area but did not adequately determine the cumulative impacts, the conflicting impacts and the interrelationship among various energy extractive industries (such as coalbed methane, uranium, oil shale and geothermal) and the overall landscape of future scenarios of oil and gas development. Further data has become available since the completion of many of the RMP's within these lease parcels that indicate several wildlife and fish species would most likely be harmed by energy development's impacts.

Jul 21 08 03:37p
g.d

NEPA's implementing regulations further underscore an agency's duty to be alert to, and to fully analyze, potentially significant new information. "[I]f there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, a supplemental EIS must be prepared for an old EIS so that the agency has the best possible information to make any necessary substantive changes in its decisions regarding the proposal." Council on Environmental Quality, *NEPA's Forty Most Asked Questions*, available at <http://www.nepa.gov/nepa/regs/40/40p3.htm> (last visited Oct. 22, 2007) (citing 40 C.F.R. § 1502.9(c)). Such is the case with the expansion of oil and gas leasing in Wyoming and the water and air quality impacts that are becoming increasing common.

E. Current NEPA Actions Need to be Completed Prior to Further Lease Sales

In the Rock Springs BLM field office, two environmental assessments are being prepared for proposed oil and gas projects located in the area where several of these lease parcels are for sale (Devon Exploratory Drilling Proposal EA 1310(040), January 10, 2008; Rubicon 3D Seismic Survey EA 1310 (040), May 9, 2008 *for Devon Energy*). At the time of this protest letter, TU received an email copy of the Rubicon 3D EA, dated July 11, 2008, which has not been posted on the internet as of July 21, 2008. The Rubicon 3D Seismic EA has been issued a permit to conduct geophysical seismic operations and according to sources, began their operations on July 14, 2008. TU strongly urges the BLM to withdrawal the lease parcels in this area from the sale until the two EA's have been completed.

Both of the proposed EA projects were met with high levels of concern and protest by local residents, the communities themselves, the Wyoming Game and Fish Department, the Governor of Wyoming, many sportsmen groups, conservation groups, and numerous other entities that felt any oil and gas development in this area would seriously impair both the physical environment and the overall recreation values which are to be found in this popular site. On both projects, TU offered their objections to the BLM in the scoping comments, including a request that an EIS be prepared rather than an EA due to the potential for full field development of this area. It is TU's understanding that Devon Energy has nominated parcels for this sale (in the Little Mountain area south of Rock Springs) as part of their oil and gas development expansion project (BLM office). Should these parcels be purchased, full field development and unitization without further NEPA review would most likely occur and TU objects to this.

Irretrievable Commitment of Resources at Leasing Phase

Trout Unlimited's leasing concerns discussed below are amplified by the BLM's practice of vesting development rights at the time of lease issuance, regardless of specific resource concerns that might arise between the time of leasing

Jul 21 08 03:37p
p.7

and the time of actual development. This practice can lead to situations where the agency is precluded from imposing necessary stipulations for protection of resources because such stipulations are perceived to infringe on the vested rights of the lessee.

Under the BLM's regulations governing fluid mineral leases, a lessee has the "right" to use the leased lands subject only to stipulations contained in the lease, restrictions deriving from nondiscretionary statutes, and "such reasonable measures as may be required by the authorized officer." 43 C.F.R. § 3101.1-2. The regulations go on to state, however, that the additional reasonable measures can only be imposed if "consistent with lease rights granted." *Id.* A phrase often heard from agency personnel when considering the addition of new stipulations to an existing lease is that the agency's "hands are tied" because the new stipulations are viewed as impermissibly encroaching the vested right of the lessee to develop. In other words, the BLM irretrievably and irreversibly commits resources at the point of leasing, making it extremely difficult or impossible to impose additional stipulations at a future date. *See Penaco Energy, Inc. v. U.S. Dep't of Interior,* 377 F.3d 1147, 1160 (10th Cir. 2004). This is supported by the BLM's Handbook for Planning for Fluid Mineral Resources, which states, "In the fluid minerals program, [the point of irreversible] commitment occurs at the point of lease issuance." U.S. Dep't of Interior, Bureau of Land Management, *Handbook H-1624-1, Planning for Fluid Mineral Resources.*

Further, TU remains concerned that the use of a proponent's request for exemptions once the lease has been sold will result in further deterioration of those sensitive habitats and there will be little recourse for remediation, enforcement or halting the injurious activity. This concern is based on the numerous exemptions thus far granted in various BLM resource areas. As an example, the Pinedale Anticline area regularly receives requests for exemptions. Drilling and development is occurring at an ever-increasing pace in this highly prized wildlife habitat area. Populations of wintering big game are being impacted by the oil and gas activity in this area, despite the BLM's claim that no exemptions are granted that harm wildlife (Pinedale BLM office, spring 2008). Winter ranges that have been compromised by drilling, drought and general development need better protection than that which already exists yet even with scientific evidence that these impacts are occurring, there is little to stop requests from being granted once the area has been leased.

Though BLM maintains that exemptions are granted only if they are valid and do not impact wildlife, recent incidents of companies arbitrarily violating access restrictions appear to continue (Rock Springs field office-reports of energy company staking areas for seismic operations in a closed wildlife area prior to the completion of an EA, June 2008; Pinedale field office – reports of energy company illegally opening closed wildlife area gates for company access without the BLM's approval, May 2008). Whether these incidents occur due to the lack of personnel available to monitor the situation or whether there was some miscommunication among the involved parties is irrelevant. The point is that violations occur once a lease has

p.8 Jul 21 08 03:37p

been granted and even in the most highly sensitive wildlife areas, resources become the victims of a mismanaged system.

Because of the practice of vesting development rights at the time of lease issuance, though, TU is concerned that should a site-by-site analysis reveal that a particular parcel is not appropriate for surface occupancy, or other types of impacts, that the BLM's hands would be tied and the agency would be unable to effectively protect the resource. This is of particular concern where sensitive wildlife and fish species have isolated patches of secure habitat that have yet to be fragmented (such as those parcels in southwest Wyoming) but should this happen, populations of these sensitive species would face a distinct and significant threat for survival due to the negative impacts associated with oil and gas development.

TU recognizes that the Wyoming State Office of the BLM does not have authority in the context of this lease sale to alter the existing practice of irretrievably committing resources at the time of lease issuance. TU highlights this practice in this protest, however, to underscore the importance of ensuring that the BLM has taken an adequate hard look at existing and new information prior to offering parcels of public land for mineral leasing.

Protests to Specific Parcels

A. New Information Regarding the Colorado River Cutthroat Trout Requires Supplemental NEPA Analysis

Protest of Parcels within Rock Springs Field Office Resource Area: WY-0808-156; WY-0808-157; WY-0808-158; WY-0808-159; WY-0808-164; WY-0808-165; WY-0808-161; WY-0808-162; WY-0808-163

Protest of Parcels within Rawlins Field Office Resource Area: WY-0808-086; WY-0808-093; WY-0808-094

Trout Unlimited protests the offering of leases on the above parcels because they are located within watersheds known to be occupied by CRCT and the BLM has not taken a hard look at new information concerning the impacts of oil and gas development on the CRCT in these areas. TU also protests those lease offerings located in areas where coldwater recreational fish exist that have the potential to be impacted by coalbed methane development, its discharges and ramifications of those discharges, and impacts to groundwaters. Additionally, TU is concerned about the lease offerings in sensitive ecosystems that would irreparably harm coldwater fish species and their aquatic environment.

TU has reason to be concerned about the lease offerings even with the stipulations that have been attached to the lease offerings. Efforts by the BLM to minimize impacts have not been very successful thus far as witnessed in the

p.9 Jul 21 08 03:38p

Pinedale area with significant increases in air quality issues, including ozone violations, benzene contamination of water wells, groundwater contamination issues, and big game wildlife impacts due to the increased presence of oil and gas activities.

Within the described stipulations, a general "one-size-fits-all" stamp of restrictions is attached to all the lease parcels being offered in this August 5 sale. This may be acceptable to those parcels located in areas that have minimal wildlife and ecological concerns (i.e., low soil erosion, no sensitive species issues, lack of crucial wildlife habitats or multiple species crucial wildlife habitat) but for areas that have a high ecological sensitivity due to the presence of Colorado River cutthroat trout, crucial big game winter range, multiple big game habitat overlaps, high soil sedimentation and erosion potential, valuable aquifer and groundwater regimes, and the presence of sensitive, threatened or endangered species, these general stipulations are unacceptable.

1. Analysis of Colorado River Cutthroat Trout in Parcels Offered for Sale

TU has a high level of concern that important conservation populations of CRCT could be jeopardized if these parcels are leased for mineral development. The BLM's existing NEPA analyses, particularly in the Rock Springs field office, has not taken a hard look at all relevant factors concerning impacts to conservation populations of the CRCT. And while there is some discussion that significant impacts will occur to aquatic habitats from oil and gas development, there lacks discussion of how specifically these impacts would affect CRCT and how proposed mitigation will protect conservation populations of this species. In light of the known impacts, TU believes that the decision to lease parcels within CRCT watersheds is arbitrary and capricious.

The Currant Creek watershed is one of the two watersheds in the Greater Red Creek ACEC that supports several CRCT populations. The BLM has specific management guidelines outlined in the GRRMP of 1997 which expressly state that management actions will be in support of watershed stability and CRCT habitat management objectives. This area is also described as an avoidance area for rights-of-way and surface disturbing activities. Recognition of the high sediment loads that can occur in these watersheds from gully, rill, channel or accelerated sheet erosion makes any construction activity liable for contributing toward soil erosion impacts.

The nature of the highly erodible soils in this potential lease area south of Rock Springs create a significant concern for TU due to the potential for sedimentation loading, headcutting problems, contamination problems and the general declination of a premier cutthroat trout fishery. Additional concerns include air quality emissions, contamination opportunities from infrastructure development, the impacts from heavy truck traffic and the declining stability of a supportive streamside vegetation community.

Jul 21 08 03:38p p.10

In the past, sudden event thunderstorms have created significant damage to the drainages and creeks in the area. Trout Creek suffered a significant setback when such a sudden event storm occurred 3 or 4 years ago that destroyed the headwaters of Trout Creek, decimating the CRCT population. Trout in this stream now are in the low population numbers.

Also of concern within the southwestern lease parcel locations are the numerous and important headwater springs that exist here. Because of the gaining reaches that exist throughout the area, TU has concerns about potential impacts of exploration and production activities as they affect the ephemeral drainages, hillsides, and overall landscape area. BLM has not properly evaluated the potential landscape scale impacts of the proposed lease action on the hydrological and aquatic environment, and must provide a detailed description of the subsurface hydrology of the project area, with characterization of the aquifers affected by the proposed activities. The aquifer characterization should identify the differing geological formations and provide quantitative descriptions of the geohydrological characteristics of each formation.

Finally, the entire Greater Red Creek ACEC is located within an aquifer recharge zone which plays a significant role in supporting the unique trout fisheries and aquatic diversity found here. Any endeavor that involves surface disturbing activities and subsurface activities must be thoroughly analyzed and considered inappropriate if the potential exists for contamination or deterioration of the groundwater features.

2. Background Information on the Colorado River Cutthroat Trout

The CRCT is a subspecies of cutthroat that originally ranged throughout Colorado, Wyoming, Utah, New Mexico and quite possible Arizona in the coldwater stream reaches of these states. *See* Behnke, Robert, *Trout and Salmon of North America* (2002). Due largely to impacts created by humans, CRCT populations have decreased in the last 150 years and now occupy less than eight percent of their original range (from an estimated 21,386 miles of historically occupied habitat to 3,022 miles of currently occupied habitat). *See* Hirsch, Christine, L., et al, *Colorado River Cutthroat Trout Conservation Agreement Status Report, Range-wide Status of CRCT* (2005).

CRCT presently occur in three states in the West (Colorado, Wyoming and Utah), and all three states have primary responsibility under their respective state wildlife laws to manage and conserve populations of CRCT. Additionally, federal agencies that play a role in their protection include the U.S. Forest Service, the BLM, the National Park Service, and Tribal Governments.

Headwater streams typically provide habitat for CRCT populations and these stream reaches are typically small with stream widths less than 15 feet and depths

p.11

Jul 21 08 03:38p

less than three feet. Due to the small stream reaches, any degradation or catastrophic event will have immediate and long-term consequences to the fisheries population, and typically result in total fish loss. Such an event was witnessed in a tributary of LaBarge Creek in the 1970's by the Wyoming Game and Fish Department, when an oil spill into the stream killed all the CRCT. This population never recovered (Binns, WGFD, 1977). In Colorado, eight spills have been reported to the Colorado Oil and Gas Commission from 2005 to 2007 in the Parachute Creek Basin. Though some were considered small spills, due to the nature of the stream size that CRCT depend on, these spills actually can cause significant damage. Oil tankers also have contributed to serious fish kills in Colorado in the last 15 years. *See* J. Woodling, *Roan Plateau Comment Report* (August 2007). An oil tanker overturned along the side of Clear Creek west of Denver, emitting gallons of gasoline and killing thousands of trout for several miles. A second oil tanker crashed into Cochetopa Creek, also killing fish for several miles.

CRCT populations are not tolerant of sediment loads which can occur with road traffic, construction activities, sudden weather events, spills, steep slopes, etc. Such erosion events can cover eggs from spawning, literally wiping out the following year's crop of fish. Oil and gas leasing means an increase in roads, truck traffic, construction activities, toxic spill potential, and loss of water due to dewatering of streams for a variety of activities including dust suppression.

3. New Significant Information Exists Concerning Impacts to Colorado River Cutthroat Trout

A Colorado River Cutthroat Trout Conservation Team was formed in 1999 and consists of fisheries and other resource professionals from Colorado, Wyoming, Utah, the Departments of Agriculture and Interior, and the Ute Indian Tribe. The establishment of the CRCT Conservation Team has led to a more complete assessment of the CRCT's population status, abundance and distribution, giving rise to new information not available when several of the BLM's RMP's were completed. Also, since completion of the Rock Springs GRRMP of 1997, the BLM has recognized CRCT as a sensitive species, and the State of Wyoming has designated the CRCT as a species of special concern. *See* CRCT Conservation Team, *Conservation Agreement and Strategy for Colorado River Cutthroat trout [Oncorhynchus clarkii pleuriticus] in the States of Colorado, Utah and Wyoming*, p. 3 (June 2006). The BLM, through its Wyoming State Director, is a participant in the CRCT Conservation Team and a signatory to the Team's Conservation Agreement, which obligates the BLM to ensure implementation of CRCT conservation actions detailed in the Team's Conservation Strategy.

Even though the U.S. Fish and Wildlife Service concluded in April 2004 that a citizen-based petition to list the CRCT was unwarranted, the ongoing threats to CRCT habitats remain a serious concern. Annual assessments are provided on the status of the CRCT on a state-by-state basis and provide a means for establishing collaborative efforts for planning on-going and future CRCT conservation measures.

p.12 Jul 21 08 03:38p

According to the CRCT Conservation Agreement report (2005) there are 22 conservation populations of CRCT in the Upper Green River watershed basin which includes populations in the southwestern portion of Wyoming. And according to the WGFD (2008) there are 8 core conservation populations and 3 conservation populations of CRCT in the North Fork of the Little Snake watershed where 3 parcels are being offered.

A conservation population is defined as a known (genetically tested) or suspected to be at least 90 percent genetically pure or otherwise determined to be important for conservation. Concentrations of CRCT located in Wyoming occur in the Upper Green River drainages, the Blacks Fork drainages, the Flaming Gorge (east) drainages, and the Little Snake River drainages. With the amount of oil and gas development and industrial and residential development occurring within these watershed drainages, this places Wyoming in a precarious situation as the status of the CRCT is challenged from various types of development encroachment.

Recent scientific findings regarding climate change also amounts to new significant information that the BLM must consider prior to offering public lands for lease. TU has conducted several different analysis vulnerability scenarios for CRCT based on current data availability and is able to provide local extirpation estimates of conservation populations for CRCT. TU's analysis is based on the combined threat of global warming-induced environmental change and the current likelihood of population persistence.

TU's climate change analysis models three future conditions expected to have the greatest impact on trout – warmer summer temperatures, increased winter flooding, and increased wildfires. The analysis is conducted at the subwatershed scale (10,000 – 40,000 acres). The population persistence analysis is grounded in conservation biology principles on the relationship between patch size and population viability. Specifically, TU's analysis integrates data on population size (abundance), occupied stream habitat, and watershed patch size.

TU has completed these analyses across the entire range of CRCT and has found that 43 percent of the remaining conservation populations do not meet minimum habitat requirements for persistence. Of the populations that do meet these minimum requirements, over 20 percent are at high or moderate risk from climate change impacts. When taken in light of the fact that less than ten percent of the historic range is currently occupied, every remaining population is critical to the survival of the species.

These findings also make clear that if interested parties, including the BLM, are to maintain the CRCT as a viable native species, populations will need more habitat options than are currently available. In other words, we not only need to protect existing habitat, but we also need to restore other areas that have already been lost both in terms of populations and habitat. Given current habitat degradation and global warming-induced environmental change, sites that offer potential habitat

p.13 Jul 21 08 03:39p

for the future should not be further degraded or lost, because connectivity between isolated populations of CRCT will be critical to future survival of the species. It will also be necessary for all CRCT populations to have access to thermal refugia and new habitats after fires and floods.

The CRCT Conservation Teams' Conservation Strategy presents several different strategies for ensuring the long-term viability of the CRCT throughout their historic range, including recognition of the need to manage entire watersheds, rather than individual parcels of land, for CRCT conservation. "Impacts outside the riparian zone should be considered as part of CRCT management. Land management agencies should work to mitigate adverse impacts of watershed activities on water quality, instream habitat, channel morphology, riparian areas, and population stability." *Id.* at 18. Further, "[l]and management decisions likely to affect CRCT populations will include both pre- and post-project evaluation and monitoring to ensure that the habitat elements for CRCT are protected. Timber management, road construction, mineral development, and their associated impacts should be analyzed and mitigated prior to implementation.... This amounts to administrative restoration, where adverse impacts are mitigated at the plan level." *Id.* at 20.

In other words, the importance of watershed-level planning to the conservation of the CRCT has been highlighted in the Conservation Strategy – a type of planning that is explicitly rejected by the FEIS in favor of site-specific analysis of water impacts. In Colorado, the BLM itself stated in a 2002 report evaluating Areas of Critical Environmental Concern that entire watersheds in which CRCT reside are considered important to the long-term functionality of vital ecosystem processes which maintain upland and stream habitats important to these fish. *See* U.S. Dep't of Interior, Bureau of Land Management, *Roan Plateau RMP Amendment: Evaluation of Proposed Areas of Critical Environmental Concern* (Aug. 2002). The BLM also concluded in this document that "conservation populations are important in the overall conservation of the species and are given the highest priority for management and protection. These populations are unique and irreplaceable". This assessment should be considered relevant for the consideration of pulling those lease parcels in southwestern Wyoming where the entire watershed in which CRCT reside will be threatened with any type of increased development.

Additionally, road building and mining operations alter the hydrology of watersheds and have been well documented to be harmful to fish and other aquatic life[1]. A 1996 report on the conservation status of the CRCT estimated that roads have affected seven percent of all pure and hybrid populations and one percent of all

[1] Eaglin, Gregory S. and Wayne A. Hubert. 1993. "Effects of Logging and Roads on Substrate and Trout in Streams of the Medicine Bow National Forest, Wyoming." *North American Journal of Fisheries Management*, Laramie, Wyoming: Fish and Wildlife Service; 13(4):844-847.; "Summary of Historical and Legal Context for Water/Road Interaction". Technology and Development Program, US Department of Agriculture. Ronald Copstead, P.E. San Dimas Technology and Development Center, December 1997.

p.14 Jul 21 08 03:39p

unknown populations of CRCT. [2] Given that CRCT occupies less than five percent of its historic range in Wyoming, this damage estimate is cause for concern. It is undisputed that stream sedimentation caused from erosive soils and slopes are harmful to native trout. Increased sedimentation reduces dissolved oxygen, raises stream temperature, and often covers or buries trout spawning grounds, removing any reproduction potential. Oil and gas development inherently bring in the added impact of roads, erosion, dust pollution, culvert barriers, and runoff pollution. Examples of devastating impacts to a species population were witnessed this past winter in Colorado. Several recent drilling mud spills (November 2007-February 2008; Colorado Oil and Gas Conservation Commission reports) which occurred this past winter in the Roan Plateau dumped more than 1.2 million gallons of contaminated drilling mud into tributaries that contain CRCT populations. Analysis still continues on those impacts to the fisheries ecosystem.

Moreover, springs from aquifers that supply water to these CRCT streams could be impacted by groundwater extraction in many of these areas. Headwaters of the Middle and West Fork of Currant Creek, the Marsh Creek springs region and headwaters, and numerous other sensitive streams occupy the area that contain parcels WY-0808-156, 157, 158, 159, 164 and 165. In addition, this entire watershed area is known as a groundwater recharge area. Little is known about the impacts from groundwater contamination but what is known is that groundwater provides much of the surface water that flows in streams. Reduced stream flows harm fisheries, and in stream reaches that contain sensitive trout species such as CRCT, harmful effects will be felt sooner rather than later and often can be long-lasting. In instances of oil and gas development, traditional gas plays require a certain amount of pumping water from the ground. In coalbed methane plays, however, the volumes of groundwater required for extraction of the gas are significantly higher, especially during early stages of production. Depletion of an aquifer during CBM development is much more significant and can contribute to a much bigger challenge than traditional gas development. *See* Trout Unlimited, *Gone to the Well Once Too Often, the Importance of Groundwater to Rivers in the West* (Feb. 2007).

In summary, Trout Unlimited is extremely concerned with the prospect of oil and gas development in watersheds containing CRCT because of the outdated and inadequate analysis contained in the several of the BLM's RMP's of impacts to these fish. Significant new information exists requiring the BLM to undertake supplemental environmental analysis.

[2] Young, M.K., R.N. Schmal, T.W. Kohley, and V.G. Leonard. 1996. Conservation status of Colorado River cutthroat trout. General Technical Report RM-282. Ft. Collins, CO: U.S. Dept. Agriculture, Forest Service, Rocky Mtn. Forest and Range Experiment Station. 32 pp.

Jul 21 08 03:39p p.15

Protests to All Identified Parcels Offered for Lease Including:

Protest of Parcels within Worland Field Office Resource Area: WY-0808-101; WY-0808-102; WY-0808-105; WY-0808-129; WY-0808-144; WY-0808-145

Protest of Parcels within Casper Field Office Resource Area: WY-0808-168; WY-0808-002; WY-0808-003; WY-0808-004; WY-0808-007

A. New Information Regarding Coalbed Methane Development Requires Supplemental NEPA Analysis

Analysis of impacts associated with coalbed methane development (CBM) in all of the above resource areas need to be updated. CBM development in Wyoming has been, for the most part, concentrated in northeastern Wyoming in the Powder River Basin where the geologic and hydrologic regimes are significantly different than those found in central and western Wyoming. Other than the Rawlins Resource Area, most of the RMP's are outdated when it comes to CBM analysis and its impacts on the environment.

It is now well-documented that CBM development poses unique environmental concerns related to water discharge that were virtually unknown in the early 1990's. *See Penaco Energy, Inc. v. U.S. Dep't of Interior*, 377 F.3d 1147 (10th Cir. 2004). In the Powder River Basin existing incidences with CBM discharge waters negatively impacting surface soils and vegetation illustrate the need for careful and thoughtful analysis with respect to impacts to coldwater fisheries (Powder River Basin Council website; www.powderriverbasin.org). Water contamination issues in Wyoming by oil and gas development has spawned a new citizen's group that is calling for federal and state agencies to look at how oil and gas impacts affect human health (see Casper Star article, Monday, July 21, 2008. *"Contaminated wells concern residents"*). And finally, recent CBM incidents in Colorado continue to offer proof that little is known about CBM's water well contamination, its explosive characteristics, the impacts associated with groundwater contamination, and its surface water destruction. In an April 13, 2008 article in the Salt Lake Tribune ("Methane menace haunts West"; www.sltrib.com) describes the many fears and actual incidents homeowners are experiencing from methane gas contamination into their water wells. Other incidents of CBM fires and methane explosions in recent years have occurred in Colorado within most of the BLM resource planning areas ("Coalbed Methane Well Ignites Forest Fire". San Juan Citizens Alliance San Juan Citizens Alliance. October, 2003. *San Juan Citizens News*, p.11. (http://www.sanjuancitizens.org/SJCANews_Oct03.pdf).

Hydraulic fracturing is another issue of concern with respect to CBM development. There is significant evidence that CBM reservoirs may contaminate groundwater resources. The compressors required to compress CBM gas release a

number of emissions into the air, and incomplete combustion of the natural gas often used to fire the compressors can release formaldehyde, a known carcinogen, into the air. Surface storage impoundments for produced water have been found to leak and compromise soil stability downstream. Surface discharge of CBM produced water can alter vegetation and soil types and is often discharged in large quantities that can alter stream morphology. It is now known that coal seam aquifers and shallow drinking water aquifers are sometimes geologically connected. NEPA requires that the BLM consider new information concerning the impacts associated with CBM development.

B. Lease Parcels with the Potential for Coalbed Methane Development in the Rawlins Resource Area Should Be Deferred

TU protests the offering of parcels WY-0808-086, WY-0808-093 and WY-0808-094 because of the likelihood that they will be developed for coalbed methane (CBM) extraction and the associated adverse impacts from such development on water resources and aquatic life, including Colorado River cutthroat trout, a BLM sensitive species.

Currently, there are approximately five CBM wells in the immediate vicinity of these parcels nominated for lease in Wyoming. Just across the border in Colorado, there are about 20 active CBM wells, with another half dozen pending approval by the BLM. These current and proposed wells all are located in the Little Snake River drainage. The upper reaches of the Little Snake River and its tributaries (including Savery Creek) are coldwater fisheries that contain Colorado River cutthroat. The Little Snake River Conservation District has recently been involved in habitat improvement and stream modifications to Savery Creek in an effort to enhance fish migration and spawning and stabilize vegetation to benefit not only fisheries, but also songbirds, waterfowl and mule deer. The Conservation District has spent over $600,000 on the project, and the Wyoming Wildlife Trust Fund has contributed over $100,000 of the necessary funding.

The Proposed Resource Management Plan and Final Environmental Impact Statement (FEIS; 2007) for the Rawlins Field Office catalogues the environmental impacts associated with CBM development, including increased erosion and surface runoff, increased frequency and magnitude of sediment transport, and management of the enormous volume of produced water through reinjection or surface discharge to streams or infiltration ponds. Surface discharge of produced water changes the physical hydrology of receiving waters, changes the geomorphology of stream channels, and impacts water quality. (FEIS at 4-426). Further, if the produced water is treated prior to discharge, there will be surface disturbance (and the related erosion and sedimentation issues) at the treatment site and associated pipelines. Surface storage of produced water in evaporation/infiltration ponds also can have environmental consequences, including concentration of pollutants in the ponds as water evaporates. Further, depending on the geology and soil structure of a particular site, such ponds can leak or even catastrophically fail, as has been

Jul 21 08 03:40p p.17

demonstrated to be the case in the Powder River Basin. Leaking impoundments can result in increased surface disturbance (when efforts to mitigate leakages are made), establishment of invasive species, mobilization of salts and minerals through the soil, and creation of shallow ponds that provide breeding grounds for mosquitoes.

These impacts all have the potential to significantly and adversely affect coldwater fish, including specifically the Colorado River cutthroat trout. The FEIS states that impacts to Colorado River cutthroat trout are considered significant if there is substantial loss of habitat function or disruption of life history requirements that would preclude improvement of their status. (FEIS at 4-450).

The potential adverse impacts to aquatic life from increased CBM development in the Little Snake River drainage are obvious. Increased erosion and sedimentation, coupled with potential degradation of water quality and stream morphology from surface discharge or impoundment, are recognized as likely impacts. Hundreds of thousands of dollars have been spent in recent years in this area to improve habitat for aquatic life. The immediate vicinity already contains a number of existing leases that have not been developed. Yet, the BLM proposes to lease another 3,000 acres for CBM development adjacent to the Little Snake River and Savery Creek. TU has great concern that the sale of these leases ultimately will affect Colorado River cutthroat trout. TU protests the inclusion of parcels WY-0808-086, -093 and -094 and requests that the BLM defer leasing these parcels.

C. New Information Regarding Climate Change Requires Additional NEPA Analysis

Protest of <u>All</u> Parcels Offered at the Lease Sale ✓

As applicable federal law, implementing regulations and memoranda, and court precedent make clear, the BLM must analyze the impacts arising out of new information not previously available when original NEPA documents were drafted. With respect to the August 5 lease sale, new information has become available regarding the impacts of climate change on fish and wildlife and their habitats that was not included in the BLM's previous analyses of impacts from oil and gas development on the sale parcels. The existing NEPA documents relied upon by the BLM in conjunction with this lease sale do not address impacts from climate change and specifically do not account for the severe drought encountered in Wyoming during the past decade. The BLM's reliance on upon land use plans that authorize leasing but do not analyze the cumulative impacts of climate change represents a NEPA violation and additional NEPA analysis is required before the irretrievable commitment of leasing is made.

D. New Information Regarding Wildlife and other Fisheries Impacts Requires Additional NEPA Analysis

Jul 21 08 03:40p p.18

The BLM is required to consider the direct, indirect and cumulative impacts that will occur from the proposed oil and gas drilling assumed to occur with the sale of these lease parcels. Although the potential impacts of oil and gas seismographic activity, exploration, development, and production were considered in many of the FEIS' , several new studies revealing alarmingly adverse impacts to wildlife populations from energy development are now available, requiring the BLM to consider this data in supplemental analysis prior to offering these parcels for lease.

Located within most of the lease parcels are crucial big game habitat, parturition areas, and migration corridors supplying the connectivity access necessary for maintaining herd health. Parturition areas supply secure cover and nutritional supplements necessary for calving, lambing or fawning and growing elk, mule deer and bighorn sheep. Important big game migration areas meander through theses many parcels, providing direct links between mountain forest areas for summer range and lower elevation sagebrush and grasslands for crucial winter range.

Increased levels of natural gas development result in a decrease in available big game and sage grouse habitat. Loss of important critical habitat pushes big game into smaller and lesser quality habitat, which can lead to less than healthy animals going into winter conditions, fewer young being produced, an increase in disease potential, and encroachment of wildlife onto private properties. Fragmentation of habitat occurs when drilling increases and important migration corridors are often lost or blocked. According to several studies in western Wyoming, mule deer and pronghorn antelope are being significantly and negatively affected by natural gas development in prime wildlife habitat. *See* Sawyer, Hall, et al., *Mule deer and pronghorn migration in western Wyoming*, in Wildlife Society Bulletin 2005, 33(4):1266-1273 (2005); Sawyer, Hall, et al., *Winter Habitat Selection of Mule Deer Before and During Development of a Natural Gas Field.* in The Journal of Wildlife Management 70(2):396-403; (2006). These studies showed that changes in habitat use began immediately (during the first year of gas development), and that mule deer were less likely to occupy areas, even if it was high quality habitat, in close proximity to well pads. Well pads and the infrastructure activities that go along with natural gas development all contribute to the movement of mule deer and antelope off of high quality habitat areas. Research showed that distribution of big game shifted to less quality and less preferred habitat, ultimately and potentially placing these animals at survival risk. The results of the Sawyer 2006 Annual Mule Deer Report suggest that mule deer abundance in the developed gas field steadily declined by 46 percent over the first four years of gas development. This is a conservative estimate, because the study did not include deer that moved or died.

Habitat abandonment has also occurred in areas where natural gas development is occurring. The findings from an antelope study conducted in Wyoming by the Wildlife Conservation Society (2006) found that habitat fragmentation may be leading to habitat abandonment. Energy development includes a number of impacts to wildlife habitat, including well pad development,

Jul 21 08 03:40p p.19

roads, heavy and constant traffic, pipelines and storage infrastructure, and all of these contribute to wildlife habitat fragmentation.

Finally, many of these parcels are home to several wildlife species that are on the federal Threatened and Endangered Species list or are considered sensitive or species of concern by the state of Wyoming and/or federal agencies. These parcels also include areas that have been identified by the Wyoming Game and Fish Department as key habitat for fish and wildlife species of greatest conservation need (WGFD 2007). During scoping comments for the Baxter Exploratory Project (Rock Springs Field Office, February 2008) and the Rubicon 3D Seismic project (Rock Springs Field Office, May 2008), the WGFD strenuously opposed the development of oil and gas within the southwestern portion of Wyoming (Little Mountain area). Stating concerns about impacts to big game migration routes, crucial winter range for big game, Colorado River cutthroat trout and the aquatic systems, sage grouse and significant impacts to prized hunt areas, the WGFD requested that these areas be withdrawn from leasing (WGFD letters to BLM; February 2008; May 2008). Equally concerned is the Governor of Wyoming, who also provided letters of concern about the on-going quest for oil and gas development in this sensitive ecological system in southwestern Wyoming (letter to BLM; February 2008).

The greater sage grouse and pygmy rabbit are moving toward being listed under the ESA. Recognized as BLM sensitive species, the BLM must provide management actions that assist toward reducing these species from the sensitive species list. Approving the surface disturbing activities associated with oil and gas development in this area does not necessarily place the BLM in a position of meeting its obligation toward those management objectives. Wildlife species known to exist within the proposed August 5 lease sale include:

- Elk, mule deer, antelope and their overlapping crucial winter range areas in the Rock Springs resource area, the Worland resource area, and the Rawlins resource area;
- Greater Sage Grouse populations occupy habitat in the Rock Springs resource area, the Rawlins resource area, the Casper resource area and the Worland resource area;
- Nesting raptor habitat (including the Ferruginous Hawk, a species of concern) in the Rock Springs resource area, the Worland resource area, the Casper resource area and the Rawlins resource area;
- Roundtail Chub, Bluehead Sucker, and Flannelmouth Sucker are all found in the Rawlins resource area and potentially the Rock Springs resource area and remain species of federal concern, including proposals for listing under the ESA (2003). The Colorado River Fish and Wildlife Council (CRFWC) of which Wyoming is a participatory, directed in 2001 that a conservation agreement be developed to address the status and management implications for these three species.
- Pygmy rabbit, a threatened species, has been identified in the Rock Springs

p.20 Jul 21 08 03:41p

resource area;

- Midget faded rattlesnake, a proposed listed species, has been identified in the Rock Springs resource area;
- A host of additionally identified wildlife and plant species that are considered threatened, sensitive or endangered under state and federal regulations.

Given this new information not previously considered by the BLM, TU protests the offering of all identified parcels at the lease sale until such information can be fully analyzed by the BLM.

E. New Information Regarding Economic Impacts Requires Additional NEPA Analysis

Protest of All Identified Parcels Offered for Lease

The importance of hunting and fishing to residents and nonresidents of Wyoming cannot be underestimated. Hunting and fishing continue to provide a valuable economic return to the state of Wyoming. Many retail businesses would not be able to survive without the income from hunters, anglers, snowmobilers, hikers, outfitters, etc. Counties and communities have vested interests in the renewable economic opportunities these resources supply. Natural resources such as these provide valuable cultural and heritage continuity between the past and future generations of people who want to enjoy these significant values provided by the Wyoming outdoors.

Significant new information exists regarding the economic benefits of hunting and fishing since individual BLM resource areas' analysis in their management plans. In the latest national survey of fishing, hunting and wildlife-associated recreation for activities in 2006, expenditures from fishing and hunting significantly increased. In Wyoming, more than 320,000 people participated in fishing and hunting activities in 2006. Additionally, 716,000 people participated in some form of wildlife watching activity (USFWS 2006 National Survey of Fishing, Hunting, and Wildlife Associated Recreation). A total of 3,358,523 hunting and fishing recreation days were provided to the public. Based on the number of recreation days and average expenditure per day, hunters, anglers and trappers expended approximately $350 million in pursuit of their sport (WGFD, 2005).

Numerous polls exist that query the Wyoming resident about protection of special places from the impacts of oil and gas development. In a Rocky Mountain survey conducted by the Theodore Roosevelt Conservation Partnership (2007) 86 percent of the public surveyed favored limiting or banning energy development on certain public lands that are unique and have special fish and wildlife management resources or that offered unique opportunities for sportsmen.

Potential loss of this revenue affects not only the state but each county, town

and local businesses that depend on these industries for their source of income. For many communities, these revenues are the major source of income. In addition, the Wyoming Game and Fish Department is funded by revenues from the sale of hunting and fishing licenses. It is not difficult to imagine what would happen to local communities and the state's wildlife management agency should the loss of revenue from these hunting, fishing, and tourism activities occur. TU believes that the BLM must update its economic analysis of hunting and fishing revenue and the potential loss of this revenue in light of the known impacts that will be experienced by big game.

In Carbon County where three of the lease parcels are located, the Wyoming State Office of Travel and Tourism estimated that visitors in this area spent an estimated $142.6 million in 2006. *See* Dean Runyan Associates, *The Economic Impact of Travel on Wyoming* (Sept. 2007), available at <http://www.wyomingbusiness.org/pdf/tourism/Dean_Runyan_06Final.pdf> (last visited Nov. 16, 2007). In 2006, the travel industry employed 1,560 people in Carbon County, and travelers generated $2.3 million in local taxes and $28.5 million in personal earnings to county residents in Carbon County during 2006. *Id.* Hunters come to this area to hunt elk, mule deer, and antelope. According to the Wyoming Game and Fish Department, in 2005 alone, more than 10,439 hunters contributed more than $5,604,921.00 in hunter expenditures hunting antelope, elk and mule deer in the areas that these lease parcels occur. *See* Wyoming Game and Fish Department, *Annual Report of Big and Trophy Game Harvest* (2005), available at: <http://gf.state.wy.us/wildlife/hunting/stats/harvest/2005/index.asp> (last visited Nov. 16, 2007).

Considerable amounts of time and money have been spent by state and federal agencies, volunteers, and organizations implementing habitat restoration and protection measures that seek to enhance and stabilize CRCT populations in the more than 6,700 acres south of Rock Springs where these six lease parcels are located. Since 1990, conservation and rehabilitation projects benefiting this area have topped almost $1.4 million, funded by the state, the BLM, TU, other conservation groups and the Wyoming Game and Fish Department.

Several areas within the lease parcels are also extremely popular and prized big game hunting areas. Elk Hunt Area 31, south of Rock Springs, is a limited quota region that represents one of those coveted once-in-a-lifetime desert draw tags that people plan for and spend thousands of dollars in revenue achieving their hunt experience. Other big game species that have limited quota stipulations include mule deer and antelope in the south Rock Springs area.

F. New Information Regarding Air Quality Impacts Requires Additional NEPA Analysis

The Clean Air Act, 42 U.S.C. § 7475(d)(2)(B), requires both the BLM and the Forest Service to "protect the air quality related values (including visibility)" of lands

within "Class I" airsheds. The FS and the BLM have acknowledged that air quality impacts are a potential concern in Wyoming and with the pace and extent of oil and gas lease sales and drilling activity that could occur with these lease sales, extensive and more detailed cumulative analysis needs to be conducted and monitored.

New and previously not seen in Wyoming are on-going air quality impacts attributed from the oil and gas expansion. In particular, Wyoming's Pinedale area is now being plagued by huge increases in ozone levels in addition to water contamination. The Wyoming Department of Environmental Quality (WDEQ) began monitoring elevated ozone levels in Sublette County where the Jonah and Pinedale Anticline oil and gas development is occurring. During a two week time period between February and March 2008, the WDEQ issued an unprecedented five ozone warnings. These accelerated ozone levels were directly attributable to the oil and gas development that occurs there (WDEQ, 2008; EPA 2008). It is incumbent upon the BLM in Wyoming to require updated air quality emissions studies and analysis. Many of these lease parcels for the August sale are located in high elevation areas where inversions can occur in both winter and summer (similar to what the Pinedale, Wyoming area experienced).

Conclusion and Request to Withdraw Leases from August 5 Sale

Throughout this protest letter, TU has referenced the requests from the Governor's office and the Wyoming Game and Fish Department to withdraw lease parcels where sensitive and irreplaceable wildlife and fisheries habitat exists. TU feels that the BLM's assessments and findings fail to acknowledge the significant commitment to development and production that arises upon issuance of a federal oil and gas lease. New significant information exists that must be analyzed in a supplemental NEPA analysis including public participation and comment. Absent updated analysis, the BLM will make irretrievable commitments of resources that are likely to harm fish and wildlife populations in Wyoming, air quality and water quality sources, as well as the members of the public who enjoy recreational and business opportunities on and around public lands.

Trout Unlimited respectfully requests the cancellation of the August 5 lease sale until adequate analysis of impacts associated with CBM development, air quality, and climate change/drought is completed. Should BLM continue forward with the lease sale, TU requests that the parcels identified above located in CRCT watersheds be deferred from leasing.

All of us recognizes the unique importance of these areas to wildlife and fisheries and strongly feel, with supportive scientific evidence, that long-lasting harm will come to these outstanding wildlife and fish areas should this lease sale proceed.

Respectfully,

Cathy Purves
Technical Advisor
Trout Unlimited
315 Main Street, Suite 11
Lander, WY 82520
307-332-6700 extension 10
cpurves@tu.org

cc: Governor Freudenthal
Director Steve Ferrell, Wyoming Game and Fish Department
Lance Porter, Field Manager, Rock Springs BLM