

In Reply Refer To:

3120 (922JWeaver)
June 2009 Protest
Phone No: 307-775-6176
Fax No: 307-775-6203

MAY 27 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Erik Molvar
Biodiversity Conservation Alliance
P.O. Box 1512
Laramie, WY 82070

Megan Mueller
Center for Native Ecosystems
1536 Wynkoop St., Ste. 303
Denver, CO 80202

**DECISION
PROTEST DISMISSED**

We received a protest from Biodiversity Conservation Alliance (BCA) and Center for Native Ecosystems (CNE) for the June 2, 2009, Competitive Oil and Gas Lease Sale. The Bureau of Land Management (BLM) has dismissed the protest filed by BCA and CNE for the June 2, 2009, Competitive Oil and Gas Lease Sale because it was not properly filed.

The Bureau of Land Management (BLM) posted the Notice of Competitive Oil and Gas Lease Sale on April 17, 2009, in the public room, on the internet, and mailed it to subscribers. The Notice provides 30 days to file protests (15 days prior to the sale). Page viii of this Notice states that BLM "must receive a protest no later than 4:00 p.m. local time on May 18, 2009, the 15th calendar day prior to the date of the sale." The protest was officially received at the appropriate fax number after the 4:00 p.m. deadline.

Page viii, Bullet 3 of lease sale Notice states, "A protest filed by fax must be sent to 307-775-6203. A fax sent to a fax number other than the fax number identified or a protest filed by electronic mail will be dismissed." The lease sale Notice further states, "We will dismiss a late-filed protest or a protest filed without a statement of reasons."

In the past, BLM has dismissed several protest which have been filed late, filed by email, and filed incorrectly (wrong fax machine) since this policy was established by WO IM 2005-176 ("Filing of Protests on Lands Included in Oil and Gas Lease Sales", dated June 27, 2005).

After careful review, the BLM BLM has dismissed the protest filed by BCA and CNE for the following reasons:

- First copy of protest sent to fax machine 307-775-6129 (Public Room) and only partially received (53 of 72 pages) (wrong fax machine).
- Second copy of protest e-mailed to the Public Information Desk (e-mail cannot be accepted by policy).
- Third copy of protest faxed to correct number starting at 4:19 p.m. The 72nd and final page stopped printing at 5:06 p.m. (received after the 4:00 p.m. deadline).

Although BLM cannot accept your submission as an official protest, we will accept it as a comment and will review it for any new substantive information.

Appeal Information

This Decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1 (copy attached). If an appeal is taken, your notice of appeal must be filed in this office within 30 days from your receipt of this Decision. The protestor has the burden of showing that the Decision appealed from is in error.

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 Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed on the attached document. Copies of the notice of appeal and petition for a stay must be submitted to the Interior Board of Land Appeals and the appropriate Office of the Solicitor (see 43 CFR §4.413) at the same time the original documents are filed with this office. Copy of the notice of appeal and petition for a stay must also be submitted to each adversely affected party named in this decision 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 parties if the stay is granted or denied,
- (2) The likelihood of the protesters' success on the merits,
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and

- (4) Whether the public interest favors granting the stay.

DONALD A. SIMPSON

Donald A. Simpson
State Director

1 – Attachment
1 - Form 1842-1

cc:
Wayne Prindle, Conservation Advocate
Biodiversity Conservation Alliance
P.O. Box 1512
Laramie, WY 82070

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

(922JWeaver); June 2009 Protest
 Erik Molvar
 Biodiversity Conservation Alliance
 P.O. Box 1512
 Laramie, WY 82070

2. Article Number
(Transfer from service label)

7006 2760 0000 7858 6552

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERYA. Signature
X *Cam M'Lean* Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

5/29/09

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes**SENDER: COMPLETE THIS SECTION**

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1. Article Addressed to:

(922JWeaver); June 2009 Protest
 Megan Mueller
 Center for Native Ecosystems
 1536 Wynkoop St., Ste. 303
 Denver, CO 80202

2. Article Number
(Transfer from service label)

7006 2760 0000 7858 6569

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERYA. Signature
X *Paige Bonaker* Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

Paige Bonaker

6.1.09

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes