



444 East 800 North
Logan, UT 84321
t & f: 435.752.2111
e: bruce@wyomingoutdoorcouncil.org

2011 DEC -8 AM 10:00
RECEIVED
DOI/BLM
CHEYENNE, WYOMING

RECEIVED
DEC 08 2011
BY: ZF

Mr. Don Simpson, State Director
Bureau of Land Management
5353 Yellowstone Road
Cheyenne, WY 82003

DEC 08 2011
ID _____ HP&M _____
ASD _____ M&LA _____
OC _____ DSS _____
EEO _____ CF _____
LAW _____ LEAD REP. _____

December 7, 2011

**Re: Protest of the Sale of Certain Parcels Proposed for Sale at the BLM's
February 2012 Competitive Oil and Gas Lease Sale**

Dear Mr. Simpson:

In accordance with 43 CFR §§ 4.450-2 and 3120.1-3, the Wyoming Outdoor Council protests the following parcels being offered at the Bureau of Land Management's (BLM) February 7, 2012 competitive oil and natural gas lease sale. In this protest we protest the sale of lease parcels WY-1202-189 and -202, which are located in the Lander and Cody Field Offices.

I. STATEMENT OF INTEREST.

The Wyoming Outdoor Council (WOC) is a non-profit conservation organization with approximately 1,300 members in Wyoming, other states and abroad. The Wyoming Outdoor Council is dedicated to the protection and enhancement of Wyoming's environment, communities and quality of life. It has members that live in the Cody and Lander Field Offices where the protested parcels are located. Wyoming Outdoor Council members utilize land and water resources within and near these areas for hiking, fishing, camping, recreational and aesthetic purposes. The Wyoming Outdoor Council is actively involved in BLM oil and gas activities throughout Wyoming and participates in all aspects of BLM oil and gas projects by involving its staff and members in submitting comments and attending public meetings. The Wyoming Outdoor Council's long-standing commitment to environmentally sound oil and gas leasing and development throughout Wyoming stems over forty-seven years. The Wyoming Outdoor Council submitted comments on the environmental assessment (EA) prepared for the February 2012 competitive oil and gas lease sale. Consequently, the Wyoming Outdoor Council and its members would be adversely affected by the sale of the lease parcels at issue here, and it has an interest in this lease sale.

II. AT RISK: WILDLIFE, OPEN SPACES, AND CLEAN AIR AND WATER.

Oil and gas activities on the public lands have escalated in the past several years. BLM is approving record numbers of large oil and gas development projects in Wyoming. Many of these lands provide critical habitat for a number of species, ranging from mule deer to imperiled species, such as Greater sage-grouse. They serve as quiet, serene places of natural beauty and solitude, and as such, they provide excellent recreational opportunities for hiking, birding, wildlife viewing, hunting, fishing, backpacking, and enjoyment of open spaces.

Explosive oil and gas development on many of these lands threatens all of the above resources, which BLM has a mandatory duty to protect for “multiple use.” Oil and gas development has already caused, and will continue to lead to, fragmented habitat and surface disturbances through well pad construction, oil and gas well rigs, increased vehicular traffic, miles of roads, pipelines and power lines, and noise from generators and compressor stations. All of these associated activities serve to disrupt habitat, destroy nesting and brooding grounds, and disturb wildlife. These activities can significantly impact elk, mule deer, pronghorn antelope, and sage-grouse, as well as many other resident species, and impair natural characteristics, such as opportunities for solitude, and opportunities for primitive or unconfined recreation. Many of these lands serve as crucial winter range and parturition areas for elk, pronghorn antelope, and mule deer. Rare species find some of their last secure refuges on these lands.

While the sale of a lease does not necessarily create immediate disturbances, as the BLM understands, if a lease is not subject to a “No Surface Occupancy” stipulation, the lessee receives contractually-enforceable rights and the agency makes an irreversible and irretrievable commitment of resources. 43 C.F.R. § 3101.1-2; *Pennaco Energy, Inc. v. Department of the Interior*, 377 F.3d 1147 (10th Cir. 2004). In other words, once a lease is sold, the ability to mitigate impacts is reduced, putting sensitive resources at risk of significant and potentially unacceptable harm. Because it represents an irretrievable and irreversible commitment of resources, the leasing stage is extremely critical. Given this level of importance, the Wyoming Outdoor Council is filing this protest and requests that the BLM remove the challenged parcels from the upcoming sale.

III. BASIS OF PROTEST.

The Wyoming Outdoor Council previously filed comments on the EA prepared for this lease sale, raising concerns about the two protested parcels.

Unfortunately the BLM has not responded to those concerns and has proceeded to make the two protested parcels available for sale at the February, 2012 lease sale. Hence this protest.

Fundamentally we believe it is inappropriate to offer these parcels while the Bighorn Basin and Lander Resource Management Plans (RMP) are under revision. We will not belabor this protest with a detailed review of the obligations and authority provided to BLM by its Instruction Memoranda (IM) to preclude leasing during an RMP revision, as we have done so in numerous previous protests. BLM is well aware of the authority provided by IMs 2004-110 and 2004-110 Change 1. Under IM 2004-110, additional NEPA documentation prior to leasing is needed when there are significant new circumstances or information that bear on the environmental consequences of leasing that are not within the scope previously analyzed in the existing RMP. Existing NEPA documentation supporting an RMP and its decisions relative to leasing become insufficient when the analysis of impacts fails to identify stipulations that would retain BLM's "full authority to protect or mitigate effects to other resources." IM 2004-110 Change 1 "re-emphasizes the importance of considering temporary deferral of oil, gas, and geothermal leasing in those areas with active land use planning activities."

As we made clear in our comments on the EA, which are incorporated into this protest by this reference, it is clear that substantial new information regarding numerous resources is available and apparent with respect to the protested parcels. Parcel -202 requires nine stipulations, which demonstrates the overwhelming significance of the environmental values associated with this parcel, making it inappropriate to lease it while the RMP is under revision. Parcels that require this level of stipulation should not be offered for sale under the framework of an old, outdated RMP, their sale should await the revision of the RMP so that the most up-to-date information possible can be applied to these lease parcels. And certainly the existing Cody RMP did not address in with any specificity, and really not at all, issues related to long-billed curlews, and many other issues that are implicated by the sale of parcel -202. And in any event, the Bighorn Basin RMP will likely be finalized within six months, so there would be little delay in deferring the sale of parcel -202.

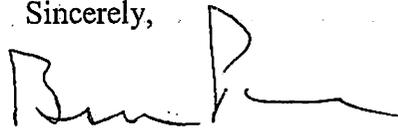
As to parcel -189, it too is in a Field Office undertaking an RMP revision, the Lander Field Office. Thus, the BLM should follow the guidance in its IMs and defer leasing this parcel. Significantly, this parcel would be located in the area proposed for a Master Leasing Plan (MLP) under the draft Lander RMP. *See* Lander RMP Draft Environmental Impact Statement at Map 143. It appears this parcel would be located in the controlled surface use management zone of this MLP. Currently the parcel has controlled surface use stipulations attached to it

that relate to paleontological values and threatened, endangered or special status species (white-tailed prairie dogs, mountain plover, Cedar Rim thistle, Beaver Rim phlox, greater sage-grouse, and endangered fish species in the Platte River system are mentioned). But the Beaver Rim area is recognized for many more values than just these. Among other things, the Lander RMP draft environmental impact statement says the Beaver Rim area is significant for important wildlife, geologic, scenic, paleontological, and cultural resource values. Thus, controlled surface use stipulations for these values should be attached to this parcel, which is not currently the case. Moreover, under the terms proposed for the MLP in the draft Lander RMP, the BLM would limit surface disturbance to no more than 5 percent in a township, seek to co-locate new disturbance if possible, and would require that new disturbance be at least 1.2 miles from existing disturbance. See Lander RMP draft environmental impact statement at Record # 2027. Numerous other provisions apply to this MLP area. These limitations too are not reflected in the stipulations currently attached to parcel -189. Given the likelihood that an MLP will be put in place pursuant to the revised Lander RMP for the area that includes parcel -189, it is not appropriate to offer this parcel for sale while the RMP is still being revised.

IV. CONCLUSION.

We appreciate your consideration of the issues raised in this protest and trust that upon further consideration parcels -189 and -202 will be removed from the February 7, 2012 competitive oil and gas lease sale.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Pendery", with a long horizontal flourish extending to the right.

Bruce Pendery