



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Wyoming State Office  
P.O. Box 1828  
Cheyenne, Wyoming 82003-1828

In Reply Refer to:  
3100 (921Bargsten)  
November 2012 Protests

**NOV 05 2012**

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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Biodiversity Conservation Alliance  
P.O. Box 1512  
Laramie, Wyoming 82073

Mike Chiropoulos  
Western Resource Advocates  
2260 Baseline Road, Suite 200  
Boulder, Colorado 80302

Nada Culver  
The Wilderness Society  
1660 Wynkoop Street, Suite 850  
Denver, Colorado 80202

Sharon O'Toole  
Ladder Livestock Company, LLC  
P.O. Box 159  
Savery, Wyoming 82332

### **DECISION**

**ELEVEN PARCELS DEFERRED; PROTESTS TO THOSE PARCELS DISMISSED AS MOOT**

**ALL OTHER PROTESTS DENIED OR DISMISSED; ALL REMAINING PARCELS WILL BE OFFERED FOR SALE**

Between September 7, 2012 and September 10, 2012, the Bureau of Land Management (BLM), Wyoming State Office (WSO), timely received four protests to specific oil and gas lease sale parcels planned to be offered in the November 6, 2012 competitive oil and gas lease sale (November 2012 Sale) from (1) Biodiversity Conservation Alliance (BCA); (2) The Wilderness Society, Wyoming Outdoor Council, Biodiversity Conservation Alliance, Natural Resources Defense Council, and Wyoming Wilderness Association (TWS et al.); (3) Western Resource Advocates, representing the National Audubon Society, Audubon Rockies, Audubon Wyoming, and Rocky Mountain Wild (Audubon);<sup>1</sup> and (4) Ladder Livestock Company LLC (LLC).

The BLM received nominations for the November 2012 Sale until January 6, 2012. The November 2012 Sale includes Federal fluid mineral estate located in the BLM Wyoming's High Desert District (or HDD, which includes the Rawlins, Rock Springs, Kemmerer and Pinedale Field Offices; however, the November 2012 Sale does not include any parcels within the Pinedale Field Office). After preliminary adjudication of the nominated parcels by the WSO, the parcels were reviewed by the field offices and

<sup>1</sup> Audubon submitted their protest by facsimile (fax) on September 7, 2012, the final day a protest could be received by such means. Audubon failed to transmit all of their exhibits due to problems at the first business facility from which they sent the fax. Audubon attempted to re-send the transmittals multiple times from the first business facility. Later that same day, they sent a new fax from a different facility, but explained to the WSO that because of the high per-page fees for transmitting the fax from the business facility, they would only send certain pages of the exhibits. Since Audubon failed to submit all of the apparent pages for exhibits listed in the protest, the BLM can only consider those actually received. In addition, some pages of the exhibits, particularly those maps contained in Exhibit 1, are almost entirely illegible (perhaps due to the original maps being printed in colors that the black-and-white fax rendered indistinguishable).

District Office, including interdisciplinary review, field visits to nominated parcels (where appropriate), review of conformance with the Resource Management Plan (RMP) decisions for each planning area, and preparation of an Environmental Assessment (EA) documenting National Environmental Policy Act (NEPA) compliance.<sup>2</sup>

In the November 2012 Sale, the BLM also carried forward 42 parcels for re-posting that were temporarily deferred from the November 2011 Sale.<sup>3</sup> These 42 parcels were “located within a delineated Wyoming sage-grouse core area and have been deferred from the [November 2011] sale list pending a consistency review with proposed National BLM sage-grouse management policy.” This review (and the temporary deferral of the 42 parcels) was occasioned by the anticipated release of new policy from the BLM-Washington Office.<sup>4</sup> The BLM prepared an EA (DOI-BLM-WY-030-2011-123-EA) for the November 2011 Sale (which included consideration of all 42 of the parcels subsequently deferred for the consistency review) that was also released for public review and comment.<sup>5</sup> These 42 parcels were subsequently re-reviewed for consistency with current BLM policy related to sage-grouse for the November 2012 Sale.

During the BLM’s review of the November 2012 parcels, the WSO also independently screened each of the parcels, confirmed plan conformance,<sup>6</sup> coordinated with the State of Wyoming Governor’s Office and Game and Fish Department, confirmed compliance with national and state BLM policies, and considered on-going efforts by the BLM in Wyoming to revise or amend RMPs for planning areas subject to this sale, including the BLM’s on-going planning efforts related to the management of greater sage-grouse habitat on public lands.<sup>7</sup>

The HDD’s November 2012 Sale EA (DOI-BLM-WY-040-EA12-130 v.1), along with a draft, unsigned Finding of No Significant Impact (FONSI)<sup>8</sup> were released on May 9, 2012, for a 30-day public review period, ending June 8, 2012. A total of seven comment letters were received (EA v.2 at page 6).<sup>9</sup> The EA tiered to the existing field office/resource area RMPs and their respective Environmental Impact Statements (EISs), in accordance with 40 CFR 1502.20:

*Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review... the subsequent ...environmental assessment need only summarize the*

<sup>2</sup> <http://www.blm.gov/wy/st/en/info/NEPA/documents/og-ea/2012/nov.html>

<sup>3</sup> See the Information Notice dated October 20, 2011, available at:

[http://www.blm.gov/wy/st/en/programs/energy/Oil\\_and\\_Gas/Leasing/2011/11notice2.html](http://www.blm.gov/wy/st/en/programs/energy/Oil_and_Gas/Leasing/2011/11notice2.html)

<sup>4</sup> The policies (Instruction Memorandums 2012-043 and -044) were related to the interim management of sage-grouse habitat on public lands, and were released on December 22, 2011 and December 27, 2011, respectively.

<sup>5</sup> Available at <http://www.blm.gov/wy/st/en/info/NEPA/documents/og-ea/1111.html>

<sup>6</sup> See BLM’s Land Use Planning Handbook at page 42: “After the RMP is approved, any authorizations and management actions approved... must be specifically provided for in the RMP or be consistent with the terms, conditions, and decisions in the approved RMP.” See also 43 CFR 1610.5-3.

<sup>7</sup> See 75 FR 30054-30055, May 28, 2010. See also 76 FR 77008-77011, December 9, 2011. For the HDD, only a single office is currently engaged in a RMP revision, the Rock Springs Field Office (encompassed by the 1997 Green River RMP). See 76 FR 5607-5608, February 1, 2011.

<sup>8</sup> See the BLM’s NEPA Handbook H-1790-1 at page 76. Though the BLM has elected to release a draft, unsigned FONSI for public review in this instance, the BLM is not asserting that any of the criteria in 40 CFR 1501.4(e)(2) are met. Since the RMP EISs have already evaluated potentially significant impacts arising from the BLM’s land use planning decisions, the BLM anticipates a “finding of no new significant impacts.” See 43 CFR 46.140(c).

<sup>9</sup> The EA indicates that a total of nine letters were received; the HDD has clarified to the WSO that, in fact, only seven letters were submitted.

*issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action.*

The BLM described its purpose and need for the November 2012 Sale EA,<sup>10</sup> including (at page 2):

*The BLM's purpose for offering parcels and subsequent issuance of leases in the November 2012 lease sale is to provide for exploration and development of additional oil and gas resources to help meet the nation's need for energy sources, while protecting other resource values in accordance with guiding laws, regulations, and Land Use Planning decisions...*

*The offering for sale and subsequent issuance of oil and gas leases is needed to meet the requirements of [the Mineral Leasing Act of 1920, the Federal Land Policy Management Act of 1976], and the minerals management objectives in the Kemmerer, Pinedale, Rawlins, and Green River Resource Management Plans (RMPs)...*

*Decisions to be made based on this analysis include which parcels would be offered for lease, which parcels would be deferred, which parcels are not available for leasing, and what stipulations will be placed on the parcels that would be offered for lease...<sup>[11]</sup>*

The November 2012 Sale EA considered three alternatives in detail (at pages 6-9); similar alternatives were considered in the November 2011 Sale EA:

- The No Action alternative (Alternative A) which considered not offering any of the 86 parcels (a total of 115,338.20 acres) available for lease
- The "Proposed Action" alternative (Alternative B) which included offering 54 entire parcels and portions of 11 parcels (a total of 80,905.61 acres, or 70% of that area nominated and available for the November 2012 Sale)
- The "Maximum Parcels Offering" alternative (Alternative C) which was identical to the Proposed Action alternative, but including offering those available parcels deferred in Alternative B, for a total of 84 entire parcels and portions of 2 parcels (a total of 115,338.20 acres)

The EA also considered one alternative (offering all the parcels available for leasing with a No Surface Occupancy, or NSO, stipulation), but eliminated it from detailed analysis. The acreages were very slightly adjusted after the EA (v.2) was released; by Information Notice dated October 15, 2012, the BLM notified the public that the listed acreages were corrected for three parcels (for a total net change of +1.00 acre to each of the alternatives described in the November 2012 EA, and a total net change of +6.00 acres to each of the alternatives described in the November 2011 EA). These adjustments were the result of a BLM cadastral survey review of the master title plats and current public lands survey information.

The four protests challenge, in total, 92 unique parcels described in the WSO's Notice of Competitive Oil and Gas Lease Sale for November 6, 2012 (Notice) that was published and released to the public on August 8, 2012.<sup>12</sup> Of these 92 parcels, 54 parcels were evaluated in the November 2012 Sale EA, and the

<sup>10</sup> In the remainder of our response, our citations from the EAs will refer to Version 2 of the EAs posted on the BLM's website.

<sup>11</sup> While a decision to be made includes what stipulations will be placed on the parcels offered for lease, this is intended as a means to ensure conformance with the decisions in the approved RMPs (see the BLM's Land Use Planning Handbook H-1601-1 at Appendix C, page 23). To the extent that the BLM may consider adding to, deleting, or modifying the constraints (stipulations) identified in the approved RMP, the BLM may need to first amend the RMP.

<sup>12</sup> See press release, available at: [http://www.blm.gov/wy/st/en/info/news\\_room/2012/august/08\\_ogsale.html](http://www.blm.gov/wy/st/en/info/news_room/2012/august/08_ogsale.html). See Attachment 1

other 38 were evaluated in the November 2011 Sale EA (and were a part of the 42 parcels temporarily deferred from the November 2011 sale and re-posted in the November 2012 Sale Notice).

The remainder of our response will address the protestors' arguments related to these 92 parcels. The BLM has reviewed the protestors' arguments in their entirety; the protestors' substantive arguments are numbered and provided in bold, with BLM responses following. Our responses, in some cases, address individual arguments that are identical or similar to those raised by other protestors. For this reason, the BLM's resolution of the individual arguments raised is inseparable from the sum of our responses.

## **ISSUES – BIODIVERSITY CONSERVATION ALLIANCE (BCA)**

BCA participated in the HDD's public review of the EA, and provided comments to which the HDD responded in Appendices "F" of the EAs. Many of BCA's arguments are identical to the comments they provided the HDD during their review of the EAs; we refer BCA to HDD's responses in Appendix F of the EAs<sup>13</sup> for additional detail on the BLM's position regarding the arguments BCA repeats in their protest.

- 1. "We protest [54 parcels] within sage grouse Core Areas... Core Area lands should not be leased to maintain the maximum range of alternative conservation measures in the Sage Grouse Plan Amendments EIS." (BCA Protest at page 1)**

### BLM Response

First, we note that of the 54 parcels described in the November 2012 Sale Notice that BCA protests in this argument, seven (parcels WY-1211-014, -046, -051, -052, -054, -082, and -090) are not actually located in State of Wyoming-designated greater sage-grouse Core Population Areas (Core Areas). This leaves 47 parcels protested by BCA under their argument that the BLM should not offer leases in the Core Areas<sup>14</sup> in order to "maintain the maximum range" of alternatives in the on-going RMP amendments and revisions.

On August 1, 2008, the Wyoming Governor issued Executive Order 2008-2,<sup>15</sup> establishing a "core population area strategy" for sage-grouse in Wyoming, an approach accommodated by the BLM on public lands, including in BLM-Wyoming's Instruction Memorandum (IM) No. WY-2012-019.<sup>16</sup> The Core Population Area strategy has been endorsed by the U.S. Fish and Wildlife Service (FWS)<sup>17</sup>:

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for a complete list of the protested parcels.

<sup>13</sup> The BLM inadvertently delayed posting Appendix F of the November 2012 Sale EA to the BLM's public website. On October 4, 2012 the BLM corrected this oversight; the BLM's response to public comments is available at: <http://www.blm.gov/style/medialib/blm/wy/information/NEPA/og/2012/11nov/ver2app.Par.88795.File.dat/appF2.pdf>

<sup>14</sup> The State of Wyoming's current Core Area boundaries are described by the State as "Version 3." See <http://gf.state.wy.us/web2011/wildlife-1000382.aspx>

<sup>15</sup> Wyoming Office of the Governor, Executive Order 2008-2 "Greater Sage-Grouse Core Area Protection." This Executive Order has since been re-issued (most recently June 2, 2011 as EO 2011-5) and the core population area strategy remains in place.

<sup>16</sup> IM No. WY-2012-019 ("Greater Sage-Grouse Habitat Management Policy on Wyoming Bureau of Land Management (BLM) Administered Public Lands Included the Federal Mineral Estate"), dated February 10, 2012.

<sup>17</sup> Letter from Brian Kelly (FWS Wyoming Field Supervisor) to Ryan Lance (Wyoming Office of the Governor), dated May 7, 2008. By letter to the Wyoming Office of the Governor, dated November 10, 2010, the FWS again supported the Core Area strategy as updated through a subsequent Executive Order ("If fully implemented, we believe the Revised Strategy can provide the conservation program necessary to achieve your goal of precluding listing of the Greater sage-grouse in Wyoming.").

*The Service does indeed believe the “core population area strategy,” as outlined in the Implementation Team’s correspondence to the Governor, is a sound framework for a policy by which to conserve greater sage-grouse in Wyoming.*

BLM Wyoming IM No. WY-2012-019 (at pages 13-15 and the IM’s attachment number 7) requires the BLM to conduct a sage-grouse screen on every reviewed oil and gas parcel to determine if the parcel should be offered for sale or deferred pending completion of the on-going RMP amendments and plan revisions in all 10 BLM Wyoming field offices. Screening criteria are described in the IM and the results are provided for all parcels in the November 2012 oil and gas lease sale EA (EA at Appendix C).<sup>18</sup> This screen provides for an objective, repeatable evaluation of nominated parcels to ensure that contiguous blocks of unleased sage-grouse habitat in Core Areas are not leased until the BLM’s public RMP revision or amendment processes have been completed, and to balance (1) the need to provide energy production from public lands and the jobs energy production provides with (2) the need to ensure the outcomes of the EISs are not prejudiced or the decision-maker’s ability to select from a range of reasonable alternatives designed to enhance protection of sage-grouse habitat is not impeded.

Oil and gas leasing is an important implementation decision arising from the approved RMPs, granting certain rights to the lessee. However, the BLM also has certain obligations to regulate the lessee’s or operator’s actions on the lease, as described in our regulations (such as 43 CFR 3101.1-2 and 43 CFR 3162.5-1(a)), on the BLM Lease Form 3100-11 (such as standard lease term Sec. 6), and under applicable laws (such as the Federal Land Policy Management Act (FLPMA)). Along with these obligations, the BLM also complies with procedural requirements of NEPA and other applicable substantive laws such as the Endangered Species Act (ESA) and the National Historic Preservation Act, (NHPA). As required by law and regulation, the lessee or their operator must first submit a plan and obtain approval from the BLM in order to initiate surface-disturbing activities on their lease.<sup>19</sup> At that time, the BLM will prepare an environmental record of review to determine, among other things, the appropriate terms and conditions of approval for the plan of operations submitted by the operator.

The BLM has initiated planning efforts across the entire range of the greater sage-grouse to consider recent scientific studies and conclusions related to sage-grouse habitat conservation measures used by the BLM on public lands. These planning efforts use an open and public process, and take into account the BLM’s multiple-use and sustained yield mandates under the FLPMA.<sup>20</sup>

The 47 (remaining) parcels protested by BCA in this argument are located within the State of Wyoming’s Core Population Areas for sage-grouse, but do not meet the criteria described in BLM Wyoming policy and in the HDD’s oil and gas lease sale EAs. Both the HDD and the WSO conducted duplicative, independent screens of the parcels to determine which parcels (or portions of parcels) would be deferred under the applicable BLM policy until completion of the pending sage-grouse RMP amendments or

<sup>18</sup> The parcels re-posted from the November 2011 Sale were first screened under a previous policy that is substantially similar (BLM-Wyoming IM 2010-013), as described in the November 2011 Sale EA (Appendix C); prior to re-posting these parcels in the November 2012 Sale Notice, the WSO conducted a re-review of the 42 parcels to evaluate compliance with updated BLM policy (BLM-Wyoming IM 2012-019). Re-review of these 42 parcels resulted in the additional deferral of two entire parcels (309.13 acres) and portions of 17 other parcels (5,920.00 acres).

<sup>19</sup> See the Mineral Leasing Act of 1920, as amended. 30 U.S.C. § 226(g): “No permit to drill on an oil and gas lease issued under this chapter may be granted without the analysis and approval by the Secretary concerned of a plan of operations covering proposed surface-disturbing activities within the lease area.” See also Onshore Oil and Gas Order No. 1 parts IV and VII. See also 43 CFR 3162.3-1(c) and 3162.3-3.

<sup>20</sup> See BLM-Washington Office IM No. 2012-044 (“BLM National Greater Sage-Grouse Land Use Planning Strategy”). December 27, 2011.

revisions. The EAs describe potential impacts under Alternative B to sage-grouse and their habitats on these parcels (see November 2012 Sale EA at pages 70-71, 76, and 87; see November 2011 Sale EA at pages 96-97, and 111), and include analysis considering application of a seasonal Timing Limitation (TL) stipulation during sage-grouse nesting and early brood-rearing periods (see EAs at Appendix B) in conformance with the approved RMPs.

The BLM has established an objective process to ensure that the BLM's decision-maker(s) will be able to freely select from the range of reasonable alternatives contemplated in the RMP sage-grouse amendments and plan revisions – the process is described as the “sage-grouse leasing screen” in the BLM-Wyoming instruction memoranda. The Council on Environmental Quality's (CEQ's) regulations at 40 CFR 1506.1 describe the limitations on actions during the NEPA process, including (a):

*Until an agency issues a record of decision... no action concerning the proposal shall be taken which would: (1) Have an adverse environmental impact; or (2) Limit the choice of reasonable alternatives.*

The Department of the Interior's (DOI's) NEPA regulations at 43 CFR 46.160 further explain:

*During the preparation of a program or plan NEPA document, the Responsible Official may undertake any major Federal action in accordance with 40 CFR 1506.1 when that action is within the scope of, and analyzed in, an existing NEPA document supporting the current plan or program, so long as there is adequate NEPA documentation to support the individual action.*

Lastly, the BLM's NEPA Handbook<sup>21</sup> provides:

*You must not authorize any action that would limit the choice of alternatives being analyzed under the NEPA until the NEPA process is complete (40 CFR 1506.1). However, this requirement does not apply to actions previously analyzed in a NEPA document that are proposed for implementation under an existing land use plan.*

Offering and subsequently issuing competitive oil and gas leases at the November 2012 Sale is an implementation decision under the applicable RMPs.<sup>22</sup> Of the parcels nominated and reviewed for the November 2012 Sale (not including the parcels re-posted from November 2011), 31 percent of the reviewed lease parcel acreage was deleted or deferred, primarily as a result of the BLM-Wyoming Greater sage-grouse screen.<sup>23</sup> We believe the EA and RMP EISs to which it is tiered provide adequate disclosure for the decision-maker regarding the potential impacts to sage-grouse and their habitats from leasing the protested parcels. BLM-Wyoming's sage-grouse screening process provides an objective, reasonable means for the BLM to facilitate cautious decision-making under the current RMPs and during preparation of the sage-grouse RMP amendments and plan revisions. We find that adherence to the screening process

<sup>21</sup> BLM Handbook H-1790-1 (January 30, 2008) at page 3.

<sup>22</sup> See BLM's Land Use Planning Handbook (H-1601-1, dated March 11, 2005) at Appendix C, page 24: “Implementation Decisions: Offer leases with appropriate stipulations.”

<sup>23</sup> As displayed in Attachment 1, of the 87 parcels nominated and reviewed for the November 2012 Sale (comprised of 118,091.99 acres), 65 parcels were carried forward to be offered (comprised of 80,905.61 acres). A total of 37,186.38 acres were deferred or deleted, or 31% of that area nominated and reviewed. Twenty-one parcels intersecting Core Areas and comprised of approximately 18,940.71 acres located in Core Areas were carried forward to be offered from what was nominated and reviewed. Since the Sale Notice also includes the re-posted and -reviewed parcels from the November 2011 Sale (all of which intersected Core Areas), the total acreage offered in Core Areas as described in the Sale Notice increases, yielding a total for the consolidated sale of 57 parcels intersecting Core Areas comprised of approximately 51,666.65 acres located within Core Areas.

described in the applicable BLM-Wyoming policy will ensure a range of reasonable alternatives is available for the Responsible Official to select from.

Offering these parcels is in conformance with the approved RMPs, complies with current BLM policy, and a rational basis exists for offering these parcels while the on-going RMP revisions and amendments are being considered. For the reasons described above, we deny this portion of BCA's protest.

2. **"...[11] parcels were recommended for deferral in whole or in part based on the leases screen in IM 2012-019, yet appear in the [Notice] as available for auction... BLM's decision to advance these parcels for auction in the face of recommendations for deferral pursuant to the lease screens in IM 2012-019 is arbitrary and capricious and an abuse of discretion..." (BCA Protest at pages 1-2)**

#### BLM Response

The BLM has re-checked its original findings from conducting the sage-grouse leasing screen described in BLM-Wyoming IM 2012-019 (which provides the criteria under which parcels – or portions of parcels – within Core Areas may be offered or deferred), and has determined that the BLM appropriately offered the parcels described in the November 2012 Sale Notice. Five of the eleven parcels challenged by BCA in this argument are not located in Core Areas (WY-1211-014, -046, -051, -052, and -054), and this portion of BCA's protest is dismissed. The remaining parcels intersect the Core Areas, but under the Core Area leasing screen described in IM 2012-019 would be offered, except for those portions within 0.6-mi. of an occupied lek located in Core Area; all such portions have been deferred. For these reasons, we deny the remainder of this portion of BCA's protest.

3. **"[22] parcels were not recommended for deferral in the November 2012 Lease EA because they were, in whole or in part, within Core Areas yet were not part of 11 square miles of unleased, BLM-controlled lands and minerals... These parcels also need to be deferred in order to preserve the option of implementing an alternative in the Sage Grouse Plan Amendments EIS that applies to the National Technical Team recommendations..." (BCA Protest at page 2)**

#### BLM Response

As previously described, parcel -014 is not located in a Core Area, and so BCA's protest of this parcel under this argument is dismissed. In this argument, BCA refers to the BLM's National Technical Team (NTT) report, released in BLM – Washington Office IM No. 2012-044. BCA argues that several conservation measures for "Priority Habitats" or Core Population Areas be applied to the parcels offered in the November 2012 Sale. First, the IM describes the intent of the report:

*The BLM must consider all applicable conservation measures when revising or amending its RMPs in Greater Sage Grouse habitat. The conservation measures developed by the NTT and contained in [the NTT Report] must be considered and analyzed, as appropriate, through the land use planning process...*

The NTT Report also emphasizes the intent of the conservation measures in the report for land use planning purposes (at page 5):

*The conservation measures described in this report are not an end point but, rather, a starting point to be used in the BLM's planning processes*

The NTT Report does not weigh the conservation measures relative to the BLM's multiple-use and sustained yield mandate. As such, it would be premature for the BLM to apply alternatives or recommendations from the NTT Report to the November 2012 Sale. As described by the IM and NTT Report, the RMP revisions or amendments will consider the NTT Report's conservation measures relative to other land use objectives;<sup>24</sup> on a Greater sage-grouse range-wide basis; and through coordination with the states (and the states' wildlife management agencies), the FWS, other cooperating agencies, and the public. The conservation measures in the NTT Report must be considered and analyzed through the BLM's land use planning process, and were not intended or designed to be applied to implementation decisions (such as leasing decisions) prior to their evaluation through the RMP process. Offering lease parcels subject to the numerous conservation measures described in the NTT Report (some of which, we note, are described as "alternatives" in the NTT Report) would not be in conformance with the current, approved RMPs, and so the BLM will not apply those measures until the plan revisions or amendments are completed.

For these reasons, and considering our response to BCA's related arguments in Issue No. 1, the remainder of this portion of BCA's protest is denied.

4. **“[29 parcels] derive from the November 2011 Lease EA, and many of them were deferred from the November 2011 Lease Sale under IM WY-2010-012 due to concerns about their sage grouse habitat sensitivities. These same provisions that resulted in deferral in 2011 are currently under effect under IM WY-2012-019, and these lease parcels should be once again deferred for the same reasons as they were in 2011... A different decision under the same set of facts and functionally identical regulatory framework is arbitrary and capricious and an abuse of discretion under the Administrative Procedures Act.” (BCA Protest at page 2)**

#### BLM Response

In making this argument, BCA overlooks or misunderstands the reason why the 42 parcels were deferred from the November 2011 Sale, which were then re-evaluated and (as appropriate) re-posted for the November 2012 Sale. The Information Notice notifying the public that the BLM intended to temporarily defer offering 42 parcels that intersected Core Areas from the November 2011 sale described the BLM's rationale for the temporary deferral:

*The identified forty-two (42) parcels are located within a delineated Wyoming sage-grouse core area and have been deferred from the sale list pending a consistency review with proposed National BLM sage-grouse management policy.*

As the November 2011 Sale EA describes, all 42 of these parcels passed the sage-grouse leasing screen in effect at the time they were initially nominated and reviewed, and all 42 were expected to be offered in the November 2011 Sale.<sup>25</sup> So, by temporarily deferring the 42 parcels from the November 2011 Sale,

<sup>24</sup> Where there are competing resource values in the same area, Section 103(c) of FLPMA (43 U.S.C. §1702(c)) requires that the BLM manage the public lands and their various resource values so that they are utilized in the combination that will best meet our multiple use and sustained yield mandates.

<sup>25</sup> BCA is also incorrect to assert that the criteria for deferral in the previous sage-grouse leasing screen IM (BLM-Wyoming IM 2010-013) are the "same" as those described in BLM-Wyoming IM 2012-019. All 42 parcels temporarily deferred from the

the BLM eliminated all parcels in Core Areas from that sale, in order to allow for a “consistency review” with BLM-Washington Office policy that was issued in December of 2011. However, upon issuance of the BLM-Washington Office policy, the 42 parcels were deemed appropriate for offering in an upcoming lease sale (the November 2012 Sale was chosen because it was the next sale for the High Desert District – in which the parcels are located – and providing enough time to allow for the necessary administrative steps to be taken in order to offer the parcels). The BLM re-reviewed the 42 parcels using the current sage-grouse leasing screen described in BLM-Wyoming IM 2012-019, determining that most of the parcels still passed the screen and met the criteria to be offered. BCA has not provided evidence that offering these 42 parcels for lease is inconsistent with current BLM policy, or that the BLM has not provided a rational basis for offering the challenged parcels. BCA also repeats an identical argument as described in Issue No. 3, above, for the 29 parcels challenged. We refer BCA to our response to Issue No. 3. For the above reasons, we deny this portion of BCA’s protest.

**5. “In addition, we also protest [27 parcels], which are outside Core Areas but within 2 miles of sage grouse leks...” (BCA Protest at page 3)**

- (a) “Under the settlement in *NRDC v. BLM* (Case No. 1:10-cv-00734) on the Rawlins RMP... BLM committed to consider in the Sage Grouse Plan Amendments EIS at least one alternative that requires “Outside Cores, no surface occupancy within 0.6 mile of active leks.” The BLM must maintain the option of applying this reasonable alternative that must by legal obligation be included in the Sage Grouse Plan Amendments EIS.” (BCA Protest at page 3)**

BLM Response

Here, BCA refers to an agreement entered into by the BLM on February 7, 2012 to settle litigation that was filed in the District Court for the District of Columbia (D.C.) in 2010.

In the agreement, the BLM committed to a number of terms which have no bearing on the BLM’s decision to offer parcels in the November 2012 Sale under the approved RMPs and in compliance with BLM regulations, FLPMA, and NEPA. As BCA admits, the settlement term they cite refers specifically to the BLM’s on-going amendments (and revisions, as in the case of the Rock Springs Field Office) of land use plans to determine appropriate conservation measures for greater sage-grouse. The settlement term has no bearing on implementation decisions made under the current RMPs. Further, the settlement agreement spelled out specific terms and responsibilities to which the plaintiffs (including BCA) agreed, should they believe the BLM failed to comply with any term or condition of the agreement. These terms included the initiation of a 30-day informal dispute resolution period through written notice and (should a “just and equitable solution satisfactory to all parties” not be reached) the plaintiffs could request a judicial determination by the D.C. District Court on that matter and a rescission of the agreement which, if granted, would entitle the plaintiffs to reopen the litigation.

As we have described above (see Issue No. 1), we believe the BLM has developed appropriate policy

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November 2011 sale have been re-screened in accordance with IM 2012-019 (which was issued after the November 2011 Sale parcels were first reviewed and subsequently temporarily deferred), which (as we described above) resulted in 2 additional parcels being deferred in their entirety and 17 portions of parcels being deferred. These additional deferrals were the direct result of changes to the leasing screen provided in the new policy (IM 2012-019); these additional parcels or portions of parcels will now be deferred until the BLM completes its amendment or revision of land use plans to incorporate appropriate sage-grouse habitat conservation measures.

(most recently as BLM-Wyoming IM 2012-019) to ensure a cautious approach is used while considering RMP implementation decisions made during the on-going RMP revisions and amendments. Offering these 27 parcels will not jeopardize the BLM's ability to "consider" the alternatives described in the agreement. For these reasons, we dismiss this portion of BCA's protest.

**(b) "The quarter-mile [No Surface Occupancy, or NSO] buffers and 2-mile Timing Limitation Stipulations (TLS) applied by BLM in this lease sale are clearly inadequate... ..the leasing of these parcels under the quarter-mile NSO and 2-mile TLS stipulations will result in effects on the human environment that are likely to be highly controversial pursuant to NEPA, indicating that they may not be leased absent a full-scale EIS." (BCA Protest at pages 3-4)**

### BLM Response

The BLM regulates the lessee's or operator's actions on the lease, as described in our regulations (such as 43 CFR 3101.1-2 and 43 CFR 3162.5-1(a)),<sup>26</sup> in accordance with the lease terms (such as standard lease term No. 6 on the BLM Lease Form 3100-11) and stipulations, and under applicable laws (such as FLPMA). Should a parcel be offered, a successful bid received, a lease issued, and oil and gas development be proposed, the BLM will have the ability to apply protection measures for sage-grouse and their habitats on the Federal oil and gas leases. IM No. WY-2012-019 provides several timing, distance, and disturbance conservation measures for benefit of sage-grouse, and requires (at page 8):

*All recommendations, mitigation and conservation measures will be considered in site-specific documentation of NEPA compliance. As appropriate, these measures may be incorporated into COAs of permits, plans of development, and/or other use authorizations.*

Prior to surface-disturbing activities on the parcels (should they be leased) the BLM requires a detailed plan of operations for development of the lease. Prior to approval of the plan of operations, BLM conducts site-specific environmental review, and any APD will include (at a minimum) public posting (see 43 CFR 3162.3-1(g)). The BLM retains substantial authority to regulate environmental aspects of Federal oil and gas lease operations through approval (see 43 CFR 3162.3) of APDs or Sundry Notices (SNs), and through the issuance of orders and instructions of the authorized officer (see 43 CFR 3161.2).

Aside from completing the approved RMP EISs, the HDD's lease sale EAs analyzed and disclosed the purpose and need, alternatives, affected environment, and environmental consequences (to the extent reasonably foreseeable) of offering the parcels and possibly issuing leases as described in the Notice. The EAs included site-specific review of individual parcels and potentially-affected resources.

Often, where the context and intensity of environmental impacts such as those described by BCA remain unidentifiable until exploration activities are proposed, the Application for Permit to Drill (APD) may be the first useful point at which a site-specific environmental appraisal can be undertaken (*Park County Resource Council, Inc. v. U.S. Department of Agriculture*, 10<sup>th</sup> Cir., April 17, 1987). In addition, the Interior Board of Land Appeals (IBLA) has decided that, "the BLM is not required to undertake a site-specific environmental review prior to issuing an oil and gas lease when it previously analyzed the

<sup>26</sup> See also *Yates Petroleum Corporation*, 176 IBLA 144 (September 30, 2008): "When making a decision regarding discrete surface-disturbing oil and gas development activities following site-specific environmental review, BLM has the authority to impose reasonable measures to minimize adverse impacts on other resource values, including restricting the siting or timing of lease activities."

environmental consequences of leasing the land...” (*Colorado Environmental Coalition, et al.*, IBLA 96-243, decided June 10, 1999). However, when site-specific impacts are reasonably foreseeable at the leasing stage, NEPA requires the analysis and disclosure of such reasonably foreseeable site-specific impacts (*N.M. ex rel. Richardson v. BLM*, 565 F.3d 683, 719-19 (10<sup>th</sup> Cir. 2009)). Although certain site-specific impacts remain unforeseeable at this time, the analysis in the lease sale EAs provides additional disclosure and analysis of the anticipated environmental impacts associated with our decision to offer and possibly issue leases for these parcels.

In arguing that offering these parcels is “highly controversial” and cannot be leased “absent a full-scale EIS” (BCA Protest at page 4), BCA overlooks that the BLM did undertake an EIS (actually, three RMP EISs) prior to deciding to offer these parcels. As we previously described, the EA is tiered to the RMP EISs for the Rawlins, Rock Springs, and Kemmerer field office planning areas.

In *Arizona Zoological Society et al.* (167 IBLA 347, decided January 25, 2006), the IBLA determined:

*In determining whether preparation of an environmental impact statement is required with respect to a project, one consideration is whether the effects of the project on the quality of the human environment are highly controversial in that there is a substantial dispute as to the size, nature, or effect of an action. Disagreement regarding the efficacy of a project is properly distinguished from controversy over the impacts of the project and does not require an environmental impact statement.*

Citing other cases (see 167 IBLA 347, 356-357), the Board noted that:

*“[C]ontroversial” refers to cases “where a substantial dispute exists as to the size, nature, or effect of a major Federal action rather than to the existence of opposition to a use.”*

BCA also overlooks the BLM’s substantial authority to review proposed lease operations whereby, upon completing the appropriate environmental record of review, the BLM may require modifications to siting and timing of lease operations and other reasonable measures to mitigate impacts to sage-grouse.

We find that offering (and subsequently issuing, should a successful bid be received by the BLM) the lease parcels described in the Notice is in conformance with the approved land use plans, and the lease stipulations described in the Notice provide adequate protection measures for those parcels to be offered in sage-grouse habitat, and given the substantial authority the BLM has to condition approval of lease development actions with reasonable measure to protect natural resources and environmental quality. For these reasons, we deny this portion of BCA’s protest.

**ISSUES – THE WILDERNESS SOCIETY, WYOMING OUTDOOR COUNCIL, BIODIVERSITY CONSERVATION ALLIANCE, NATURAL RESOURCES DEFENSE COUNCIL, AND WYOMING WILDERNESS ASSOCIATION (TWS ET AL.)**

Of the five parties submitting this consolidated protest, BCA and the Wyoming Outdoor Council participated in the HDD’s public review of the EAs and provided comments to which the HDD responded.

Exercising its discretion, the BLM has deferred eleven parcels subject to TWS et al.’s protest from the November 2012 Sale.<sup>27</sup> The eleven parcels are described in an Information Notice published by the BLM on October 22, 2012. TWS et al.’s protests to these eleven parcels are dismissed as moot.

<sup>27</sup> See the Mineral Leasing Act of 1920, as amended, providing that lands subject to disposition under the Act “which are known or believed to contain oil or gas deposits may be leased by the Secretary.” (Emphasis added). 30 U.S.C. § 226(a). This discretion may be exercised in the interest of conservation, wildlife protection, and other purposes in the public interest.

On protest, TWS et al. challenged 15 parcels using many of the same arguments raised in previous sales to which we have responded in previous protest decisions,<sup>28</sup> with little or no meaningful challenge to the BLM's previous responses and without providing an explanation why the circumstances in this sale are materially different, given the similar (if not identical) settings and issues. Upon the BLM's deferral of the eleven parcels subject to TWS et al.'s protest, four parcels protested by TWS et al. remain to be offered in this Sale. None of the four remaining protested parcels were re-posted from the November 2011 Sale; our citations from the lease sale EA when responding to TWS et al.'s arguments will refer only to the November 2012 Sale EA. The remainder of our responses to TWS et al. will address their challenges made to the offering of the four remaining parcels (WY-1211-017, -029, -030, & -031) under their protest.

**6. "Each of the Protested Parcels is located either adjacent or near to the Adobe Town Wilderness Study Areas (WSA)... Because the BLM has not complied with FLPMA or BLM Manuals 6310 and 6320, it may not offer the Protested Parcels in the November 2012 lease sale." (TWS et al. Protest at page 3)**

Additional Background

The four remaining parcels protested by TWS et al. are located outside of the Adobe Town WSA, but within the Adobe Town Dispersed Recreation Use Area (DRUA).<sup>29</sup> The DRUA is an area designated in the Rawlins Field Office's 2008 Record of Decision (ROD) and approved RMP. The ROD describes the special measures applicable within the DRUA, including (at page 1-13):<sup>30</sup>

*The Adobe Town Dispersed Recreation Use Area... will be a priority for reclamation after oil and gas development ceases... [and] will be managed for primitive, middle, and front country recreation desired future use in addition to other multiple uses. The area will be managed for dispersed recreation uses that do not require recreational developments or facilities. Future emphasis will be placed on maintaining an undeveloped recreation setting.*

The November 2012 Sale EA explained (at pages 51-52) that each of the parcels in the DRUA<sup>31</sup> was screened for wilderness characteristics,<sup>32</sup> using an updated 2011 wilderness characteristics inventory that was "conducted in accordance BLM IM 2011-154" (*Id.*).<sup>33</sup> The EA displayed the results of the screen for wilderness characteristics (at Appendix D) and evaluated potential impacts to wilderness characteristics (at pages 73-74).

<sup>28</sup> Including the May 2012 Protest Decision that was subsequently appealed to the IBLA by BCA (IBLA 2012-208), available at: <http://www.blm.gov/style/medialib/blm/wy/programs/energy/og/leasing/protests/2012/may.Par.31663.File.dat/MayProtest-Decision.pdf>

<sup>29</sup> A map of the protested parcels, the DRUA, and Adobe Town WSA is provided in Attachment 2.

<sup>30</sup> See also Appendix 37 to the Rawlins Field Office 2008 Approved RMP and ROD

<sup>31</sup> The EA describes the parcels using their "preliminary" lease numbers – see Attachment 1 to this decision for a cross-reference of preliminary and final parcel numbers.

<sup>32</sup> The BLM uses the same criteria for identifying wilderness characteristics as described in Section 2(c) of the Wilderness Act (see FLMPA §103(i) and IM No. 2011-154 at Attachment 1, page 4).

<sup>33</sup> "Requirement to Conduct and Maintain Inventory Information for Wilderness Characteristics and to Consider Lands with Wilderness Characteristics in Land Use Plans" (July 25, 2011). This IM was subsequently replaced upon its adoption to BLM Manual Sections 6310 on March 15, 2012 ("Conducting Wilderness Characteristics Inventory on BLM Lands") and 6320 ("Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process").

In accordance with the ROD and approved RMP, the BLM applied several lease stipulations to the protested parcels listed in the Notice and located within the DRUA (see Notice at pages 11-23), including a DRUA Controlled Surface Use (CSU) stipulation:

*Surface occupancy or use will be restricted or prohibited unless the operator and surface managing agency arrive at an acceptable plan for mitigation of anticipated impacts... protecting recreation opportunity class setting within the Adobe Town Dispersed Recreation Use Area.*

Regarding the BLM's inventory of wilderness characteristics on public lands, Section 201(a) of FLPMA requires:

*The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.*

As the language of the statute acknowledges, preparation and maintenance of an inventory or identification of areas (such as lands with wilderness characteristics) shall not, of itself, change or prevent change to the management of public lands. BLM Manual Section 6320.06 provides the following direction:

*Consistent with FLPMA and other applicable authorities, the BLM will consider the wilderness characteristics of public lands when undertaking land use planning. The BLM will use the land use planning process to determine how to manage lands with wilderness characteristics as part of the BLM's multiple-use mandate.*

So, while the BLM will consider wilderness characteristics on public lands as a resource when making decisions in the context of multiple-use management, the Manual directs the BLM to use the RMP process in making the determination as to how manage lands with wilderness characteristics. In this case, the 2008 Rawlins ROD and approved RMP did not close the areas encompassing the protested parcels to oil and gas leasing or prioritize protection of wilderness characteristics outside the Adobe Town WSA over other multiple uses.

- (a) “In 2002, the BLM determined that all or portions of parcels 15-19, 21 and 23-28 [including one of the remaining 4 Protested Parcels, -017] contained wilderness characteristics... However, because those parcels were either already leased or adjacent to leased lands, the BLM eliminated alternatives from the Rawlins RMP Final EIS that would have protected their wilderness characteristics. Because that decision was and remains inconsistent with the BLM's obligations under FLPMA and Manuals 6310 and 6320, the BLM must withdraw [the 12 parcels] from the sale...” (TWS et al. Protest at page 3)**

### BLM Response

In this argument, TWS et al. state their belief that the BLM must withdraw parcel -017 (the only parcel remaining in this portion of the protest after the BLM's deferral of 11 parcels, as described above) from the November 2012 Sale since the December 24, 2008 Rawlins ROD and approved RMP “was and

remains inconsistent with the BLM's obligations under FLPMA and Manuals 6310 and 6320" (TWS et al. Protest at page 3). At its core, then, TWS et al. are challenging the BLM's 2008 RMP decision, which is not subject to protest in the November 2012 Sale.

Offering the protested parcel<sup>34</sup> is in conformance with the 2008 ROD and approved Rawlins RMP, which determined that this area is open to leasing and that wilderness characteristics, where present, would not be managed "for" by the BLM (ROD at page 1-3). In the Director's Protest Resolution Report for the Rawlins RMP,<sup>35</sup> the BLM-Washington Office denied a protest on this point, determining (at page 150):

*... [t]he BLM is not required to manage for wilderness characteristics simply because they may exist.*

BLM Manual 6320 requires (at .06.A):

*Considering wilderness characteristics in the land use planning process may result in several outcomes, including, but not limited to: (1) emphasizing other multiple uses as a priority over protecting wilderness characteristics; (2) emphasizing other multiple uses while applying management restrictions (conditions of use, mitigation measures) to reduce impacts to wilderness characteristics; (3) the protection of wilderness characteristics as a priority over other multiple uses*

Through the land use planning process (see 43 CFR 1601), the 2008 Rawlins ROD and approved RMP considered management of lands with wilderness characteristics, but did not protect wilderness characteristics as a priority over other multiple uses.

While TWS et al. may disagree with the RMP decision, the Director's Protest Resolution, and the BLM-Wyoming's continued implementation of the RMP decision (through lease sales such as the November 2012 Sale), the RMP's decision remains consistent with BLM policy and Manuals.

TWS et al. also offer the claim that the BLM's 2008 RMP decision was "inconsistent" with FLPMA (TWS et al. Protest at pages 3, 6); however, TWS et al. have not provided a clear or convincing argument that this is the case. We find that, by offering the challenged parcel in the November 2012 Sale, the BLM is properly implementing multiple-use management of public lands as provided for under the ROD and approved RMP, and thus remains in compliance with FLPMA.

Lastly, TWS et al. argue (TWS et al. Protest at page 4):

*Thus, as required by current guidance, the BLM must defer [the 12 parcels, including -017] from the lease sale, so that the management of their wilderness characteristics can be reconsidered.*

While TWS et al. argue the BLM should withdraw the challenged parcel in order to "reconsider[]" management of wilderness characteristics in the Rawlins Field Office, the BLM did consider the

<sup>34</sup> A map of the protested parcels, along with those from previous and upcoming sales in the Adobe Town vicinity, is provided in Attachment 3. Based upon updated wilderness characteristics inventories conducted by the BLM in 2011, the BLM determined that only Adobe Town Citizens' Proposed Wilderness areas C, D, E, and F contain wilderness characteristics. TWS et al. are correct in their assertion that parcels WY-1211-015 through -019, -021, and -023 through -028 are located in areas (partially or entirely) containing wilderness characteristics.

<sup>35</sup> [http://www.blm.gov/style/medialib/blm/wo/Planning\\_and\\_Renewable\\_Resources/wyoming.Par.46496.File.pdf/Rawlins\\_Directors\\_Protest\\_Resolution\\_Report\\_12.24.08.pdf](http://www.blm.gov/style/medialib/blm/wo/Planning_and_Renewable_Resources/wyoming.Par.46496.File.pdf/Rawlins_Directors_Protest_Resolution_Report_12.24.08.pdf)

management of wilderness characteristics under the approved 2008 RMP. In that decision, the BLM decided to maintain a non-impairment standard for the wilderness characteristics within the 85,700-acre Adobe Town WSA (the BLM's largest WSA in Wyoming), but declined to prioritize protection of wilderness characteristics over other multiple uses outside the Adobe Town WSA. Additionally, the November 2012 Sale EA scrutinized the potential for wilderness characteristics on each and every parcel in the sale, and disclosed (based upon updated wilderness characteristics inventories) that offering (and issuing, should a successful bid be received) lease parcels containing wilderness characteristics (November 2012 Sale EA at page 73):

*could degrade wilderness characteristics values and could result in the area containing these parcels being re-designated to no longer having conditions that meet the wilderness characteristics criteria.*

The EA and HDD's interdisciplinary review of the protested parcel have determined that offering the parcel (and with the stipulations described) is in accordance with current BLM policy and in conformance with the approved RMPs. As disclosed in the November 2012 Sale EA, this challenged parcel was determined to contain wilderness characteristics (see EA at page 73 and Appendix D, unnumbered pages 3-6). This parcel is, however, located within one mile of an active oil and gas well, and is located adjacent to existing Federal oil and gas leases (see Attachment 3). This parcel was appropriately considered for offering in the November 2012 Sale since, as the EA describes, the area is open to leasing subject to the constraints identified in the approved RMP. We find that the decision-maker is adequately informed of the consequences of offering this parcel which contains wilderness characteristics. Offering the challenged parcel is in conformance with the approved RMP and its provisions for multiple-use management of public lands under FLPMA, and complies with current BLM policy and guidance. For these reasons, we deny this portion of TWS et al.'s protest.

**(b) “Parcels 29-31 are located in the Kinney Rim citizen wilderness proposal area... The BLM’s wilderness inventory for this area was conducted in 2002, and does not comply with Manual 6310... Moreover, the findings of the 2002 inventory are explicitly contradicted by the BLM’s Draft Programmatic EIS for Oil Shale and Tar Sands... Thus, the BLM cannot rely on the findings of the 2002 Inventory to support its decision to lease parcels 29-31.” (TWS et al. Protest at page 3, footnote omitted)**

#### BLM Response

TWS et al. continue to overlook the information we have described to the public, including in previous protest decisions. As we explained in our response to TWS' protest of the May 2012 Sale (May 2012 Protest Decision at page 21, footnote omitted):

*The Rawlins Field Office recently updated its inventory of wilderness characteristics in this area... and in accordance with the BLM's policy contained in BLM-Washington Office IM 2011-154. On September 12, 2011, the Rawlins Field Office Field Manager reviewed and approved the findings of an interdisciplinary team of BLM resource specialists. These findings were based upon a review of available information, data, and field visits to the inventoried areas.*

The November 2012 Sale EA also explained that the inventory had been updated in 2011 (at page 52):

*The results of the 2002 inventory were corroborated by a BLM interdisciplinary team review in July 2011 [when the field work for the updated inventory was completed], which was conducted in accordance [with] BLM IM 2011-154.*

The BLM's current inventory of wilderness characteristics in the Adobe Town area is in compliance with current BLM policy and requirements, and TWS et al. (perhaps by persistently overlooking the updated inventories conducted in 2011) have not provided any evidence to substantiate their argument that the current inventories do not comply with applicable BLM policy and requirements. BCA has received copies of the updated 2011 inventories, though they have mischaracterized the inventories' findings.<sup>36</sup> On September 28, 2012, the BLM also provided copies of the updated inventories to TWS, along with other records, and toured the Adobe Town area with a TWS representative, in order to provide additional information to TWS about the BLM's inventories and decision-making in this area.

Next, TWS et al. repeat arguments from the May 2012 Sale protests, asserting that (TWS et al. Protest at pages 4-5):

*...the 2002 inventory is contradicted by the findings of the Oil Shale PEIS, where the BLM determined that the Protested Parcels do in fact contain wilderness characteristics... While the Wyoming State Office recently rejected the findings of the Oil Shale PEIS concerning the presence of wilderness characteristics in the lands surrounding the Adobe Town WSA, claiming that the findings are "not accurate", it has yet to provide the public with documentation showing why the Oil Shale PEIS – an official statement from the BLM's national office – is inaccurate.*

As we explained in our May 2012 Protest Decision, on February 3, 2012, the BLM began a 30-day public comment period for the 2012 Draft Oil Shale and Tar Sands Programmatic EIS (OSTS DPEIS).<sup>37</sup> This draft EIS was prepared to (OSTS DPEIS' "Dear Reader" letter at page 3):

*...reconsider which lands should be open to future leasing of oil shale and tar sands resources.*

As the OSTs DPEIS explains, this effort is being made in order to "reassess" the allocations made as a result of litigation brought by a coalition of environmental groups and because of a (OSTS DPEIS at page ES-1):

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<sup>36</sup> Between June 25, 2012 and June 28, 2012, in preparation for BCA's appeal of the BLM's May 2012 Protest Decision, BCA visited the Wyoming State Office and requested copies of several pages from the updated September 12, 2011 inventories. However, BCA subsequently mischaracterized the inventories' clear results. In BCA's June 28, 2012 "Motion for Leave to File A Reply Brief" they portrayed the results of the "Area B" inventory (at page 16), arguing that the BLM's conclusion the area does not contain wilderness characteristics is "undermined" by the results they attempted to portray. However, BCA altered the conclusions in the document they attempted to replicate. Their replication displays the "Results of analysis" for "Area B" - the BLM's Administrative Record (AR) part G.27 at unnumbered 5. In their replication, they show that answers to questions 1-4 are all "Yes," and in so displaying argue that the BLM's conclusion (that the area does not have wilderness characteristics) shows a "pattern of reversals and inconsistency" (at page 17). However, a review of the original record document (AR G.27 at unnumbered 5) shows that the actual conclusions by the BLM were "Yes" only for questions 1 and 4. For questions 2 and 3, the answers are clearly checked "No." The protestors' resultant understanding of the BLM's wilderness characteristics inventories for the Adobe Town area, upon which their arguments are founded, appear to be in error.

<sup>37</sup> Available at <http://ostseis.anl.gov/>

*...settlement agreement entered into by the United States to resolve the lawsuit and in light of new information that has emerged since the 2008 OSTs PEIS was prepared.*

The OSTs DPEIS describes the BLM's purpose and need for preparing the EIS, noting (OSTs DPEIS at page 1-4, footnote number 2):<sup>38</sup>

*This PEIS does not address opening or closing lands to development of other resources or the hydraulic fracturing of other types of shale for the production of oil and gas.*

As we explained to TWS in the May 2012 Protest Decision (at page 21):

*...we have determined that the OSTs PDEIS's information and data on wilderness characteristics in this area is not accurate and the May 2012 EA provides a more accurate and substantive description of wilderness characteristics of the specific parcels.*

Similarly, the November 2012 Sale EA provides a more accurate and substantive description of wilderness characteristics for the challenged parcels. While the BLM regrets that the information published in the OSTs PDEIS was inaccurate, the BLM has determined the error was partially the result of an inaccurate Geographic Information Systems (GIS) shapefile being transmitted to the PDEIS' contractor; this error was due in part to a Recreation Planner position vacancy in the Rawlins Field Office at the time the information was requested by the contractor. The BLM has made the 2011 updated inventories available to requestors, which substantiate the BLM's determination that the information in the OSTs PDEIS is incorrect. While TWS et al. believe the BLM has "yet to provide the public with documentation showing why the Oil Shale PEIS – an official statement from the BLM's national office – is inaccurate" (TWS et al. Protest at pages 4-5), this is contradicted by the EA's description of the documentation – the 2011 updated wilderness characteristics inventories, the BCA's review of such documentation in June 2012 and the BLM's provision of the documentation to the TWS in September 2012. Furthermore, the BLM has not refused any public request for copies of this documentation or asserted any sort of privilege for these records. Resultantly, the BLM's decisions on the presence (or absence) of wilderness characteristics is supported for the determinations used in the November 2012 Sale; the statements made in error within the OSTs PDEIS – while TWS et al. would prefer them to be correct – lack any supporting documentation.

We find that the BLM has appropriately relied upon the findings of a detailed, site-specific review when considering whether the decision-maker is adequately informed about the potential for wilderness characteristics to exist on the challenged parcels. We acknowledge that the OSTs PDEIS contains inaccurate information, and have contacted the agency personnel responsible for preparation of the Final EIS to ensure more accurate information will be included in the final document. We find that through the actions taken by the HDD and Rawlins Field Office, the BLM remains in compliance with Section 201 of FLPMA and the decision-maker is adequately informed when selecting an alternative from the November 2012 Competitive Oil and Gas Lease Sale EA.

7. **"...the BLM must defer the Protested Parcels from the lease sale until it brings the Rawlins RMP into compliance with applicable law (and policy) ...the Final EA tiers to an unlawful RMP, which failed to consider any alternatives to protect lands with wilderness characteristics in the Rawlins Field Office." (TWS et al. Protest at page 5)**

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<sup>38</sup> See also OSTs PDEIS at page 1-13.

BLM Response

The Rawlins RMP is not the subject of this protest. We deny this portion of TWS et al.'s protest, and refer TWS et al. to the Director's Protest Resolution Report for the 2008 Rawlins ROD and approved RMP.

**8. "Offering the Protested Parcels in the November 2012 Lease Sale would violate NEPA."  
(TWS et al. Protest at page 5)**

- (a) **"...in the Final EA, the BLM has failed to evaluate an adequate range of alternatives that would protect the wilderness characteristics of the Protested Parcels from the impacts of the lease sale. Such alternatives include offering the Protested Parcels with a no-surface occupancy stipulation or deferring the parcels (at a minimum) until the current Visual Resource Management plan amendment is finished."** (TWS et al. Protest at page 6)

BLM Response

As described earlier, the BLM considered three alternatives in detail for the November 2012 Sale EA, and discarded one alternative from detailed analysis.

TWS et al. argue that the BLM failed to evaluate an adequate range of alternatives, and first offer that the BLM should have included offering the protested parcels with a No Surface Occupancy (NSO) stipulation. However, TWS et al.'s argument overlooks the fact that the BLM *did* consider an alternative that would offer the protested parcels with a NSO stipulation, but declined to analyze this alternative in detail because it (November 2012 Sale EA at page 9):

*...is not supported by the respective RMPs...; it would only prohibit surface occupancy for oil and gas development; whereas other non-oil & gas occupancy may not be similarly constrained. Further, it unnecessarily constrains oil and gas occupancy in areas where the... RMPs have determined that less restrictive stipulations would adequately mitigate the anticipated impact.*

Changing the allocation decisions (including a decision as to which areas are open for oil and gas leasing subject to "major" constraints such as NSOs) in the RMP would first require a plan amendment. TWS et al. argue that a "rule of reason" should be employed (TWS et al. Protest at page 6), and that this rule is governed by two "guideposts" (*Id.*):

*(1) the agency's statutory mandates; and (2) the objectives for the project.*

Using these "guideposts" TWS et al. argue that (TWS et al. Protest at page 6):

*Here, there is no doubt that BLM's legal mandates under FLPMA and NEPA require it to fully consider the protection of wilderness values, and... the agency cannot treat leasing as the sole objective of oil and gas lease sales...*

However, while the BLM must consider protection of wilderness characteristics under FLPMA's multiple-use mandate (and has done so), the BLM must also (Section 102(a)(12) of FLPMA) ensure that public lands:

*be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber...*

These multiple uses (for example, protection of wilderness characteristics and making available of sources of domestic minerals) have been considered in the Rawlins RMP. While the BLM (through the ROD and approved RMP) chose in some places to ensure non-impairment of wilderness characteristics (such as in the Adobe Town WSA), the BLM elected not to prioritize protection of wilderness characteristics over other multiple uses in the areas where the protested parcels are located. Although TWS et al. may disagree with that decision, the ROD and approved RMP is not the subject of this protest. The approved RMP provides the BLM with the controlling goals and objectives for managing public lands within the planning area. As Section 302(a) of FLPMA requires, the BLM:

*shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans...*

The ROD and approved RMP provides that the area encompassing the protested parcels is open for oil and gas leasing subject to several constraints; offering these parcels under the alternatives described in the EA is consistent with the purpose and need described by the BLM, in part, as (EA at page 2):

*...to provide for exploration and development of additional oil and gas resources to help meet the nation's need for energy sources, while protecting other resource values in accordance with guiding laws, regulations, and Land Use Planning decisions.*

In summary, using the “guideposts” advocated by TWS et al., we find that offering the protested parcels is consistent with the BLM’s statutory mandates and objectives for the project. For these reasons, we deny this portion of TWS et al.’s protest.

TWS et al. also offer another alternative – that the protested parcels be deferred until the on-going Visual Resource Management (VRM) amendment for the Rawlins RMP is completed. We will address this in full in TWS et al.’s next argument.

**(b) “...leasing the Protested Parcels will limit the choice of alternatives and prejudice the ultimate decision in the ongoing VRM Amendment to the Rawlins RMP.” (TWS et al. Protest at page 7)**

#### BLM Response

Upon completion of the 2008 Rawlins ROD and approved RMP, the BLM-Washington Office resolved protests submitted to the ROD. Several protests challenged the Visual Resource Management (VRM) objectives and designations in the ROD. After reviewing the protests, the BLM-Washington Office issued a decision (Director’s Protest Resolution Report at page 140):

*In further review of the primary issue from the protest letters as stated above, the BLM grants the protest and will provide a clarification in the ROD. The VRM class designation and decision portions of the PRMP/FEIS have been remanded... Using [an] updated inventory as a baseline, VRM class designations will be considered and analyzed in a future VRM-targeted EIS for the planning area.*

In response to a protest of the ROD regarding VRM classification near the Adobe Town Wilderness

Study Area (WSA), the BLM-Washington Office responded, in part (Director's Protest Resolution Report at page 141):

*The VRM class and viewshed analysis will be taken into consideration during environmental analysis for any project-level proposal within the planning area.*

In the November 2012 Sale EA, the BLM considered the VRM classifications within area encompassing the protested parcels (at pages 57-59), and explained (EA at page 58):

*RFO has completed the required [Visual Resources Inventory, or VRI] and in February 2011 issued the updated VRI results. RFO is undertaking an RMP revision to consider and evaluate the updated VRI data and to designate VRM class objectives.*

The EA incorporated a map ("Map 2", which uses the preliminary parcel numbers) displaying the protested parcels in relation to the Adobe Town WSA and VRI classifications. In analyzing potential impacts to visual resources (see pages 81-83), the EA stated (at page 82):

*Offering the 16 parcels in the DRUA at the November 2012 lease sale would not compromise BLM's ability to select any of the alternatives developed and analyzed in the pending RMP Amendment. As stated above, all of the VRI units in the DRUA already have numerous existing oil and gas leases. Approximately 80 percent of the DRUA is currently occupied by existing leases. Adding these 16 leases will not substantially increase the percentage of the area leased. Because the leases would be offered under the current VRM III Classification they would not be encumbered by the Class II VRM controlled surface use stipulations; however, they would still be encumbered by the DRUA CSU stipulations to protect the recreational opportunity setting.*

The "recreation opportunity class setting" protected by the DRUA CSU is derived from the BLM's planning policies and decisions for recreation on public lands. The BLM Manual Section 8320<sup>39</sup> provides (at Part 06.C.6, emphasis added):

*Recreation and visitor services planning requires coordination with other programs (e.g., travel and transportation management, visual resource management, cultural, wildlife, and law enforcement) to ensure decisions are compatible across programs.*

To this end, the BLM retains the authority, through the DRUA CSU lease stipulation, to ensure that (should a lease be issued and if subsequent development is proposed) lease development activities on these leases will comply with the applicable VRM requirements and to the extent recreation settings and VRM objectives are compatible. This stipulation, along with the substantial authority the BLM has to condition approval of lease development actions with reasonable measures to protect natural resources and environmental quality, will ensure that by offering these lease parcels the BLM will not limit the choice of reasonable alternatives in the VRM amendment. Design features and mitigation measures that the BLM may require to be used for protection of the recreational setting on these leases include (where appropriate) use of low-profile tanks and production equipment, coloration or camouflage of

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<sup>39</sup> See BLM Manual Section 8320 ("Planning for Recreation and Visitor Services"), March 29, 2011.

above-ground facilities, offsite production measurement and remote monitoring/telemetry, hastened reclamation of disturbed areas, and siting of facilities in topographically-favorable locations to avoid visual intrusion.<sup>40</sup>

To the extent that TWS et al. indicate they believe that the BLM should refrain from issuing these leases because the BLM has initiated the VRM plan amendment, the IBLA has held that BLM may offer parcels for lease and issue new leases when an RMP is being revised, if the leasing decision conforms to the existing RMP (see *Sierra Club Legal Defense Fund, Inc.*, 124 IBLA 130, 140 (1992)).<sup>41</sup>

*Acceptance of appellants' position that once BLM has decided to prepare a new land use plan for an area, it must suspend action in conformance with the prevailing plan would seriously impair BLM's ability to perform its management responsibilities. We therefore reject this challenge to BLM's decision.*

In this decision, the IBLA recognized that acceptance of the protestor's position would seriously impair the BLM's ability to perform its land management responsibilities. As in *Sierra Club Legal Defense Fund, Inc.*, there is no dispute here that the proposed sale partially implements the goals and objectives in the approved RMPs.

TWS et al. have not refuted the BLM's explanation in the EA that the range of alternatives under the VRM amendment will not be limited through offering the protested parcels. We agree with the EA's conclusion, given the presence of existing oil and gas leases in the DRUA and the substantial ability for the BLM to condition approvals for lease operations to protect the visual landscape (should a lease be issued, and should development be eventually proposed and then approved on the lease), and as bolstered by the DRUA CSU stipulation.

Offering these protested parcels is in conformance with the approved RMP, and the BLM retains the authority to ensure that potential lease development operations do not limit the BLM's ability to select from a reasonable range of alternatives in the VRM amendment. For the reasons described above, we deny this portion of TWS et al.'s protest.

**9. "...the Rawlins Field Office is violating the terms of the settlement agreement that resolved litigation over the Rawlins RMP." (TWS et al. Protest at page 7)**

BLM Response

Lastly, TWS et al. argue that by offering the protested parcels the BLM would be "violating" the terms of a settlement agreement made by the BLM in recent litigation and related to the VRM amendment.<sup>42</sup> The plaintiffs in that litigation are these five protestors.

The Rawlins Field Office is currently engaged in amending the approved Rawlins RMP for the purpose of designating VRM classifications, and upon remand from the BLM-Washington Office (WO). Offering

<sup>40</sup> These, and other VRM protection measures the BLM employs as "reasonable measures" (43 CFR 3101.1-2) are described at [http://www.blm.gov/wo/st/en/prog/energy/oil\\_and\\_gas/best\\_management\\_practices/technical\\_information.html](http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices/technical_information.html)

<sup>41</sup> See also *Southern Utah Wilderness Alliance*, 163 IBLA 14, 27 (2004).

<sup>42</sup> *Natural Resources Defense Council et al. v. Bureau of Land Management*, Case No. 1:10-cv-00734 (BAH), District Court for the District of Columbia. The specific terms of the settlement agreement state, in part and with emphasis added, that the BLM will "commit to consider" certain VRM designations "during the new plan review... to establish VRM class designations..."

the protested parcels is in conformance with the approved RMP and in consideration of the interim VRM designations identified by the WO on remand.<sup>43</sup> The BLM retains the authority to ensure that potential lease development operations do not limit the BLM's ability to select from a reasonable range of alternatives in Rawlins' VRM amendment.

As we have explained elsewhere in this protest, the settlement agreement spelled out specific terms and responsibilities to which the plaintiffs (all five of the protestors) agreed, should they believe the BLM failed to comply with any term or condition of the agreement. These terms included the initiation of a 30-day informal dispute resolution period through written notice and (should a "just and equitable solution satisfactory to all parties" not be reached) the plaintiffs could request a judicial determination by the D.C. District Court on that matter and a rescission of the agreement which, if granted, would entitle the plaintiffs to reopen the litigation. The BLM is cognizant of the terms in the settlement agreement, and will continue to comply with the agreement; if, by submitting their protest, TWS et al. intend to serve formal written notice to the BLM, we wish to remind them of the specific terms to which they agreed in the settlement agreement governing such an action.

We disagree with TWS et al.'s arguments that the BLM must defer the protested parcels in order to comply with the terms of the settlement agreement. For the reasons described above, we deny this portion of TWS et al.'s protest.

#### **ISSUES – NATIONAL AUDUBON SOCIETY, AUDUBON ROCKIES, AUDUBON WYOMING, AND ROCKY MOUNTAIN WILD (AUDUBON)**

Audubon Rockies participated in the HDD's public review of the November 2012 Sale EA, and provided comments to which the HDD responded in Appendix F of the EA. We refer Audubon to HDD's responses in Appendix F of the EA for additional detail on the BLM's position regarding the arguments Audubon raises or repeats in their protest.

In their protest, Audubon lists 58 parcels that they are protesting "comprising tens of thousands of acres of public land or mineral estate within identified greater sage-grouse Core Population Areas..." (Audubon Protest at page 1). The BLM has confirmed that all of the protested parcels are, in fact, located either entirely or partially in Core Area, with one minor point of clarification: parcel WY-1211-037 is protested by Audubon based upon their determination that the parcel intersects Core Areas. However, the BLM did not consider this parcel as intersecting the Core Area (see November 2012 Sale EA at Appendix C, unnumbered page 3 – this parcel is preliminary parcel -041). Based upon GIS data, the WSO has determined that the vast majority of the parcel area is located outside of the Core Area; the WSO estimates that 0.01% of the 1,756.16-acre parcel is located within a Core Areas. Since the Core Area boundaries have not been surveyed or monumented, the BLM uses the best-available information, a set of GIS data published by the Wyoming Game and Fish Department. For the purposes of Audubon's protest, the BLM will consider the parcel as intersecting Core Area. However, we have determined that the parcel still would not meet the criteria for deferral under current BLM policy.

Audubon relies, in part, upon information and arguments submitted in their pending appeal and petition

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<sup>43</sup> See the Director's Protest Resolution Report at page 140: "The public will have an opportunity to comment during the subsequent NEPA environmental analysis process regarding Rawlins VRM. Until such time, the Approved Plan will utilize the VRM class designations as established and analyzed in the no action Alternative (Alternative 1) in the Rawlins PRMP/FEIS." Thus, the parcels are located in areas currently classified as VRM Class III (Parcels -062 through -066 are adjacent to areas of VRM Class IV in the BLM-Colorado Little Snake Field Office that are also currently open to oil and gas leasing).

for stay at the Interior Board of Land Appeals (IBLA) regarding the BLM's denial or dismissal of their protests to the May 2012 Sale (docketed as IBLA 2012-209). In their protest, Audubon refers to their Request for Stay and Reply to the BLM in that appeal (attached as Exhibits 4A and 4B to Audubon's protest, though only the first page of each document was actually received by the BLM in Audubon's facsimile), stating (at page 6):

*The argument, analysis and authorities in these documents are incorporated by reference into this Protest.*

We reject Audubon's "incorporat[ion] by reference" of their documents from the May 2012 Sale appeal currently before the IBLA. The BLM does not have jurisdiction over the decision in that appeal until the IBLA issues an order or decision. Furthermore, if Audubon intends to invite the BLM to address Audubon's identical "argument, analysis and authorities" in the May 2012 Sale by referring to those documents, the BLM declines, and dismisses those arguments not specifically addressed in the protest materials received by the BLM. Should an argument be presented in those appeal documents, but not in this protest to the November 2012 Sale, we believe that Audubon has failed to properly present the BLM with those arguments, and we need not respond. To the extent applicable, and should Audubon challenge our dismissal of their "argument, analysis and authorities" from the May 2012 Sale appeal, the BLM refers Audubon to the BLM's responses submitted to the Board for the May 2012 Sale.

**10. "BLM's unsigned FONSI (at 7) asserts that listed or sensitive species 'will not be affected because surface use restrictions... as well as unavailable for leasing designations, will be applied to the lease parcels.' This is contradicted by a growing body of scientific literature definitively establishing that past measures being relied on have failed to conserve sage-grouse populations or habitat, and that continuing to lease core areas subject to such 'restrictions' will result in a full listing." (Audubon Protest at page 6).**

#### BLM Response

In making their argument that "BLM violated NEPA" (Audubon Protest at page 5), Audubon states their belief that a violation of NEPA occurred as a result of the BLM issuing an unsigned, draft FONSI with the contested statements described above. It is unclear exactly what provisions or requirements of NEPA that Audubon believes have been violated by the BLM. Regardless, Audubon overlooks that, aside from applying protective measures such as lease stipulations and not allowing for leasing in areas closed for oil and gas leasing under approved RMPs, the BLM has also deferred numerous parcels within Core Areas. The BLM deferred these parcels in accordance with the sage-grouse screen in order to allow for adequate sage-grouse habitat conservation measures to be applied to those parcels upon completion of the BLM's RMP amendments and revisions, should they be re-nominated.

Please refer to our responses to BCA, above, and in particular to Issue No. 1. The EAs (and the EISs to which they tier) describe potential impacts to sage-grouse, and we find that the record provides adequate information for the decision-maker to determine if new significant impacts may occur under the alternatives analyzed. The parcels (or portions of parcels) that the BLM intends to offer for the November 2012 Sale have all passed the BLM-Wyoming's sage-grouse screen.

On the FWS' listing decision, BLM has explained to the public:<sup>44</sup>

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<sup>44</sup> See <http://www.blm.gov/wo/st/en/prog/more/sagegrouse/eastern.html>

*Based on the identified threats to the greater sage-grouse and the USFWS timeline for making a listing decision on this species, the BLM needs to incorporate explicit objectives and adequate conservation measures into RMPs within the next 3 years in order to conserve greater sage-grouse and avoid a potential listing under the Endangered Species Act. The planning strategy will evaluate the adequacy of BLM RMPs and address, as necessary, revisions and amendments throughout the range of the greater sage-grouse....*

In the interim, until the BLM is able to “incorporate explicit objectives and adequate conservation measures into RMPs” through our land use planning process, the BLM-Wyoming has provided policy direction (IM No. WY-2012-019) through coordination with the State of Wyoming and FWS (among others) for making implementation decisions (such as offering and issuing oil and gas leases) under approved RMPs, while balancing the need for domestic energy production from public lands.

In *Robertson v. Methow Valley Citizens Council* (490 U.S. 332 (1989)), the U.S. Supreme Court found:

*NEPA itself does not impose substantive duties mandating particular results but simply prescribes the necessary process for preventing uninformed – rather than unwise – agency action. If adverse environmental effects of the proposed action are adequately identified and evaluated, the agency is not constrained by NEPA from deciding that other values outweigh environmental costs.*

NEPA is an “essentially procedural” statute, meant to ensure “a fully informed and well-considered decision, not necessarily” the best decision. *Vermont Yankee Nuclear Power Corp. v. Natural Res. Def. Council, Inc.*, 435 U.S. 519 (1978).

The intent of preparing an environmental assessment is to briefly provide sufficient evidence and analysis for determining whether to prepare an EIS or a FONSI (40 CFR 1508.9).

We find that the BLM has provided “reasoned analysis containing quantitative or detailed qualitative information” (BLM’s NEPA Handbook at page 131) in the EAs and RMP EISs to which it tiers – has taken a hard look at the effects of offering the protested parcels, and has satisfied NEPA’s procedural requirements.

We deny this portion of Audubon’s protest.

- 11. “...BLM is poised to approve leasing of the protested parcels based on its conclusion that the proposed action would not “significantly affect[] the quality of the human environment.” 42 U.S.C. § 4332(2)(C); 40 C.F.R. §1502.4. But BLM’s decision was uninformed by analysis of key new information that became available after existing RMPs tiered to by the leasing EA... BLM needs to proceed cautiously consistent with its own planning strategy” (Audubon Protest at pages 6-7).**

#### BLM Response

Before addressing Audubon’s claims regarding each piece of “key new information” they assert the BLM was uninformed of, we must first address Audubon’s admonition that the BLM “needs to proceed cautiously consistent with its own planning strategy.”

As we explained, above, the BLM’s development of the sage-grouse screen (first, in BLM-Wyoming IM

2010-013 and subsequently replaced by IM 2012-019) is intended to provide a cautious and objective approach when considering potential lease parcels in Core Areas. This approach is being used during the period the BLM is revising or amending its land use plans throughout the entire State of Wyoming to ensure appropriate sage-grouse conservation measures are adopted.

Audubon is entitled to their belief that, consistent with their mission to “conserve and restore natural ecosystems” (Audubon Protest at page 1), the temporary closing of over 10 million acres of BLM-administered oil and gas estate within Core Areas in Wyoming to new oil & gas leasing would be preferable.<sup>45</sup> However, the BLM’s multiple-use mandate requires that the BLM also weigh other considerations, to ensure public lands (Section 103(c) of FLPMA):

*are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions...*

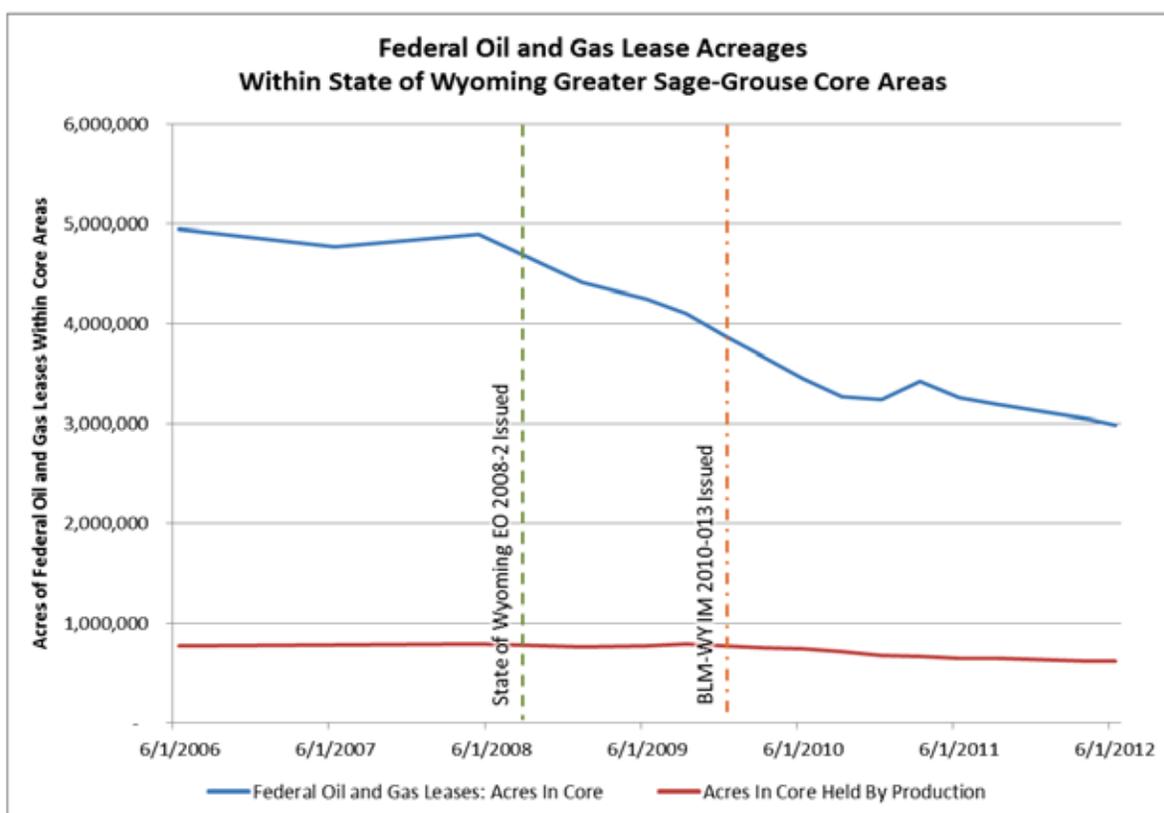
By developing and utilizing the BLM-Wyoming’s sage-grouse screen, the BLM has sought to ensure that the BLM’s ability to select from a range of reasonable alternatives in the RMP sage-grouse amendments and plan revisions is protected, while allowing for continued use and management of public lands within Core Areas to the degree appropriate under existing land use plans. In this manner, we believe, the BLM has struck a judicious balance to best meet the present and future needs of the country, the State of Wyoming, and the local communities affected by the BLM’s Federal oil and gas leasing decisions.

Furthermore, Audubon has offered no evidence that the Core Area strategy, including BLM’s adoption of an interim approach during the period the land use plans are being revised state-wide, is not effective at reducing potential and actual impacts to sage-grouse and their habitats. In fact, the area encompassed by Federal oil and gas leases within Core Areas is currently the lowest it has been since before the Core Area strategy was issued by the Governor of Wyoming, and as adopted by the BLM:<sup>46</sup>

(This area intentionally left blank)

<sup>45</sup> See Attachment 4 for maps displaying the Federal oil and gas estate within Core Areas of Wyoming that are managed by the BLM. Approximately 10,589,147 acres within Core Areas are comprised of Federal oil and gas estate, or 69% of Core Areas.

<sup>46</sup> These data represent GIS analysis of the BLM’s Federal oil and gas leasing data from June 1, 2006 through June 1, 2012. To obtain these data, the WSO utilized sixteen GIS shapefiles representing the extent of Federal oil and gas leasing within Wyoming at varying (but generally 3-month) intervals. The shapefiles were clipped to Version 3 Core Area boundaries, and the total acreages of the Federal oil and gas leases in Core Areas were calculated and summed, first for all leases and second for those leases held by production. These data indicate that approximately 19% of the 15.3-million acre Core Area is leased (as of June 2012) for Federal oil and gas development, down from a high of approximately 32% in May of 2008. These same data indicate that approximately 4% of the Core Area is currently in held by production status under a Federal oil and gas lease.



Due to lease expirations, lease terminations, and the relatively subdued pace of new leasing in Core Areas, the amount of Federal oil and gas estate leased by the BLM in Core Areas has fallen by 39 percent since the time the State of Wyoming issued the first sage-grouse Core Population Area Executive Order in 2008. The relatively subdued pace of new leasing in Core Areas is the direct result of the application of the BLM’s sage-grouse leasing screen, whereby many parcels in recent sales have been deferred from sale until the sage-grouse RMP amendments and on-going plan revisions are completed.<sup>47</sup>

Given these circumstances, we disagree with Audubon’s contention that “additional leasing of core areas will be the straw that breaks the camel’s back regarding the Service’s upcoming listing decision, and, much more importantly, the recovery prospects of this magnificent species and the entire sagebrush ecosystem” (Audubon’s Protest at page 7). Rather, we find that the evidence suggests the BLM’s cautious decision-making with regards to leasing in Core Areas has materially and substantially reduced the potential for adverse effects to sage-grouse habitat on public lands in Core, during the period that the BLM is amending or revising its RMPs to ensure appropriate sage-grouse conservation measures are adopted range-wide.

## 12. “Additional leasing of Core Population Area parcels cannot proceed without analyzing the new scientific findings and recommendations set forth in the December 21, 2011 ‘Report on

<sup>47</sup> It is not possible to ascribe a single causative factor to this observed decline; many factors likely have contributed, including the implementation of BLM policies adopting the Governor’s Core Area strategy and national or regional economic trends. While the BLM does not claim that BLM policies are the sole factor contributing to this decline, it is self-evident that by deferring and deleting parcels from the November 2012 and previous lease sales, the BLM’s cautious approach to leasing in Core Areas has contributed to this decline.

**13. National Greater Sage-Grouse Conservation Measures’ produced by the BLM’s Sage-grouse National Technical Team (Technical Team Report)... Consistent with the recommendations of BLM’s National Technical Team, Core Population Areas should be deferred from leasing as BLM considers what new management policies are needed to recover sage-grouse and habitat” (Audubon Protest at pages 7-8).**

BLM Response

Please refer to our response in Issue No. 3, above.

In this portion of their protest, Audubon also raises the argument that “[s]peculative conditions of approval on future [Applications for Permit to Drill, or APDs] cannot constitute adequate regulatory mechanisms” (Audubon Protest at page 7), apparently referring to the FWS’ consideration of regulatory mechanisms in making its determination whether or not to list greater sage-grouse as threatened or endangered.

As we have described, above, should a parcel be offered, a successful bid received, a lease issued, and oil and gas development be proposed, the BLM will have the ability to apply protection measures for sage-grouse and their habitats on the Federal oil and gas leases. Aside from completing the approved RMP EISs, the HDD’s lease sale EAs analyzed and disclosed the purpose and need, alternatives, affected environment, and environmental consequences (to the extent reasonably foreseeable) of offering the parcels and possibly issuing leases as described in the Notice. The EAs included site-specific review of individual parcels and potentially-affected resources.

For the parcels described in the November 2012 Sale Notice, the HDD followed BLM policy (the sage-grouse screen) to ensure that the Responsible Official may select from a range of reasonable alternatives in the sage-grouse RMP amendments or plan revisions. The HDD prepared documentation of NEPA compliance, considered conformance with the approved RMPs, and provided recommendations to the WSO on the disposition of each parcel based upon their interdisciplinary review.

We find that offering (and subsequently issuing, should a successful bid be received by the BLM) the lease parcels described in the Notice is in conformance with the approved land use plans, and the lease stipulations described in the Notice provide adequate protection measures for those parcels to be offered in sage-grouse habitat, and given the substantial authority the BLM has to condition approval of lease development actions with reasonable measure to protect natural resources and environmental quality. Where the BLM has identified, through policy guidance, a need to defer parcels within Core Areas to ensure that the Responsible Official’s choice of reasonable alternatives is not limited, the HDD appropriately deleted or deferred the parcels.

For the reasons described above, we deny this portion of Audubon’s protest.

**14. “If leasing within sage-grouse Core Population Areas continues, the Service will have little choice but to conclude that such actions establish the continued inadequacy of regulatory mechanisms that constrict or eliminate management options for the largest landowner of sage-grouse habitat. Futhermore, the expanse of leasing proposed within core areas for 2012 lease sales could jeopardize current proactive recovery efforts and doom future options beyond Wyoming. Leasing large acreage of important sage-grouse habitat, prior to completion of regional conservation planning efforts, will push the species closer to a full listing and must therefore be avoided.” (Audubon Protest at page 8).**

### BLM Response

Even though Audubon is a “key participant” in the Wyoming Sage Grouse Implementation Team (Audubon Protest at page 2), Audubon is perhaps spared from knowing the actual extent of Federal oil and gas leasing within the Core Areas over the recent past and up to the present day. Although Audubon believes that “the expanse of leasing proposed within core areas for 2012 lease sales could jeopardize” sage-grouse recovery efforts and “doom future options,” (Audubon Protest at page 8), this assertion is incompatible with the actual observed changes to the amount of existing leases within Core Areas throughout Wyoming. As we described in our response to Issue No. 11, above, the area encompassed by Federal oil and gas leases in Core Areas has decreased 39 percent since issuance of the State’s Core Area strategy. While Audubon is entitled to their belief that temporarily closing over 10 million acres of Federal lands to additional oil and gas leasing until the RMP amendments and revisions are completed is preferable, the BLM must also weigh other considerations, including the socioeconomic effects from deferring or deleting lease sale parcels as described in the EAs, including this (November 2012 Sale EA at page 60):

*The State of Wyoming, as well as many counties and communities there, rely on oil and gas development for part of their economic base. The employment and purchasing opportunities associated with developing and producing wells on the leases is also foregone, as would the opportunity to provide oil and gas resources from these lease parcels to help meet the nation’s energy needs.*

Audubon’s presumption that the FWS will determine the BLM’s interim actions (to say nothing of the final outcome of the BLM’s RMP amendments and revisions) to be inadequate regulatory mechanisms to prevent listing of the greater sage-grouse may be founded in Audubon’s preference to see Core Areas protected from “[a]nthropogenic habitat impacts” (Audubon Protest at page 8, citing to the NTT Report). However, Audubon has not substantiated their opinion that the BLM’s interim actions are jeopardizing the potential outcomes of the RMP amendments and revisions with objective evidence, or convincingly demonstrated that the BLM’s actions have resulted in new significant adverse impacts.

For these reasons, we deny this portion of Audubon’s protest.

- 15. “...offering core area parcels would (1) undermine the RMP sage-grouse amendment process currently proceeding within Wyoming, (2) violate existing BLM sage-grouse policies and Instruction Memoranda, (3) violate NEPA..., (4) compromise the Audubon Vision of ‘Open spaces rich in birds and other wildlife, and citizens who value that richness;’ (5) violate [FLPMA] provisions, including the multiple-use, sustained-yield mandate and undue degradation provisions (see 43 U.S.C. §§ 1712(c)(1), 1732(a) and (b); and 43 C.F.R. §1601.0-2); and (6) risk undermining the public’s trust in the Department of the Interior’s stewardship responsibility of the nation’s public lands and wildlife resources.” (Audubon Protest at page 9).**

### BLM Response

As described above, the BLM has determined that offering the parcels as described in the Notice will not constrain the BLM’s ability to complete the RMP sage-grouse amendments or select from a range of reasonable alternatives in those RMP EISs. Offering these parcels is in conformance with the approved RMPs and applicable BLM policy. The BLM has substantial authority to ensure that (should a successful

bid be received, a lease issued, and development operations proposed on the protested parcels) current and appropriate conservation measures are applied to actions taken on Federal oil and gas leases.

Next, Audubon argues that offering the protested parcels would “violate” existing BLM policies. In fact, offering the parcels is consistent with current BLM policy. Rather, not offering the protested parcels would be inconsistent with policy, since all of the protested parcels passed the sage-grouse leasing screen described in current BLM policy (BLM-Wyoming IM 2012-019).

In response to Audubon’s argument that the BLM has violated NEPA, we have carefully reviewed the EAs prepared by the HDD which tiers to the applicable RMP EISs. We find that the record provides ample information and disclosure for the decision-maker to make an informed decision.

Next, Audubon argues that offering and leasing the protested parcels will “compromise” Audubon’s vision of “[o]pen spaces rich in birds and wildlife, and citizens who value that richness.” However, the BLM must consider applicable laws, regulations, and policies that have prompted the BLM to consider offering the protested parcels; to the extent that Audubon’s vision aligns with the goals and objectives of the approved RMPs, offering these parcels may not compromise Audubon’s vision. Regardless, the BLM cannot defer to a single entity’s vision when fulfilling its obligations under FLPMA and the Mineral Leasing Act (MLA). During the RMP process, Audubon has had (and continues to have) ample opportunity to provide input to the management goals and objectives for management of public lands.

Next, Audubon argues that offering the protested parcels will violate FLPMA’s multiple use and sustained yield mandates, and the prohibition of “undue or unnecessary degradation.”

Section 302(a) of FLPMA directs the Secretary of the Interior to manage the public lands under principles of multiple use and sustained yield “in accordance with the land use plans developed under section 202 of this Act...” Section 302(b) of the Act states in part, “[i]n managing the public lands the Secretary shall, by regulations or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.”

As we have described, previously, offering the protested parcels is in conformance with the approved RMPs, which were prepared pursuant to Section 202(c) of FLPMA, which requires:

*In the development and revision of land use plans, the Secretary shall– (1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law...*

Audubon has not provided objective evidence that the approved RMPs do not “use and observe” the principles of multiple use and sustained yield. Regardless, a challenge of the RMPs is outside the scope of this protest.

Similarly, Audubon has not demonstrated that offering these parcels (with the stipulations provided as described in the Notice and in consideration of the Core Area Population strategy and the BLM’s related policies) will result in injury to sage-grouse. Accordingly, “unnecessary or undue degradation” to the public lands will not occur, and Audubon has failed to show otherwise. As the IBLA held in *Colorado Environmental Coalition*, 165 IBLA 221. 229 (2005):

*...to show that an action results in undue or unnecessary degradation of leasehold land, at a minimum, an appellant would have to show that a lessee’s operations are or were conducted in a*

*manner that does not comply with applicable law or regulations, prudent management practice, or reasonably available technology, such that the lessee could not undertake that action pursuant to a valid existing right.*

Finally, Audubon argues that by offering these parcels in accordance with the approved RMPs, the BLM is “at risk” of undermining the public’s trust in the DOI’s stewardship of the public lands. We disagree. In the BLM’s administration of activities on public lands for multiple-use management (“a deceptively simple term that describes the enormously complicated task of striking a balance among the many competing uses to which land can be put...<sup>48</sup>), the BLM continues to follow applicable laws, our regulations, and policies to (43 CFR 1601.0-2):

*...maximize resource values for the public through a rational, consistently applied set of regulations and procedures....*

For the reasons described above, we deny this portion of Audubon’s protest.

- 16. “BLM Wyoming has previously disregarded the agency’s own national policy commitment to sage-grouse conservation by approving leasing of core area parcels even after BLM commenced its range-wide planning effort. Now yet another federal agency has published a comprehensive document supporting the case for fully protecting remaining core area habitat as region-wide planning proceeds: [referencing the FWS’ Sage-Grouse Conservation Objectives Report].” (Audubon Protest at page 9).**

#### BLM Response

First, Audubon’s assertion that BLM-Wyoming has “disregarded” BLM national policy is not substantiated in fact, and is based on Audubon’s misunderstanding of what BLM national policy requires. As we have pointed out to Audubon previously, BLM national policy specifically allows for the approach developed by BLM-Wyoming in BLM-Wyoming IM 2012-019, which underwent coordination with the State of Wyoming, the FWS, and the BLM Washington, D.C. Office.

Though the BLM-Washington Office has issued an IM (No. 2012-043, “Greater Sage-Grouse Interim Management Policies and Procedures” dated December 22, 2011) regarding interim management actions in sage-grouse habitats, that policy does not apply to the fluid minerals program in Wyoming (“The BLM field offices do not need to apply the conservation policies and procedures described in this IM in areas in which (1) a state and/or local regulatory mechanism has been developed for the conservation of the Greater Sage-Grouse in coordination and concurrence with the FWS (including the Wyoming Governor’s Executive Order 2011-5, Greater Sage-Grouse Core Area Protection); and (2) the state sage-grouse plan has subsequently been adopted by the BLM through the issuance of a state-level BLM IM.”). Therefore, contrary to Audubon’s unfounded assertions, the applicable BLM policy provided in IM 2012-019 is consistent with national policy.

Audubon next, citing a draft FWS report, argues that the BLM erred by not “fully protecting remaining core area habitat” (Audubon Protest at page 8). However, the draft report does not advocate the specific conservation measure that Audubon advocates for the November 2012 Sale – that all oil and gas leasing cease within Core Areas (described as “Priority Areas for Conservation”, or PACs, in the draft report).

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<sup>48</sup> *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 58 (2004).

Rather, the BLM's understanding of the report's purposes and conclusions differs from Audubon's, and we disagree with Audubon's assertion that this draft report somehow supports deferral of all Core Area parcels in Wyoming. The draft report provides important descriptions of the principles of conservation biology as they apply to conservation of sage-grouse populations, but does not limit the adoption of different conservation measures across the range of the species. The draft report's "Conservation Goal, Objectives and Strategies and Recommendations" (pages 29-36 of the report) are not specific to any one land use, and do not even specifically mention energy development other than to say (discussing management of PAC and non-PAC areas at pages 30-31):

*we also recognize that development in sagebrush ecosystems is important to securing energy and other resources critical to our nation.*

On close inspection, then, the FWS' draft report provides important guidance for the BLM and other stakeholders to consider and follow when developing and implementing conservation objectives for sage-grouse. It does not, however, require the BLM to conduct additional analysis of the objectives described in the draft report or defer leasing of the parcels protested by Audubon in the November 2012 Sale.

For these reasons, we deny this portion of Audubon's protest.

**17. "Audubon's comments on the EA proposed a reasonable sage-grouse conservation alternative that would defer all parcels in core areas... BLM violated NEPA by declining to analyze the Grouse Conservation Alternative proposed by Audubon. (Audubon Protest at page 10).**

BLM Response

In the lease sale EAs, the BLM considered two action alternatives, the no-action alternative, and considered but eliminated from detailed analysis another alternative; the BLM did not evaluate Audubon's proposed alternative requiring deferral of all parcels in Core Areas. When responding to comments in the November 2012 Sale EA, the HDD explained (November 2012 Sale EA Appendix F, comment No. 20):

*All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 'Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate' to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed. The Nine-plan Greater Sage-grouse RMP Amendments EIS is analyzing a variety of alternatives and protections for sage grouse habitat, including oil and gas leasing.*

Audubon also overlooks BLM's alternative to defer all parcels, including those within sage-grouse core areas. The EAs (for example, see the November 2012 Sale EA at page 8) included "Alternative A – No Action" that would "not offer the ... parcels nominated for lease." This alternative remains available for the decision-maker to select, or a hybrid alternative that selects from elements of more than one alternative,<sup>49</sup> including deferral of all parcels located within Core Areas. Selection of elements from the no-action alternative (for example, deferral of all portions of parcels within Core Areas) is not just a

<sup>49</sup> See 43 CFR 46.420(c): "The Responsible Official must not consider alternatives beyond the range of alternatives discussed in the relevant environmental documents, but may select elements from several alternatives discussed."

conjectural hypothesis – the BLM has selected elements from the no-action alternative in recent oil and gas lease sales to incorporate updates to the BLM’s sage-grouse screen.<sup>50</sup> Because the HDD’s EAs included an adequate range of reasonable alternatives, we deny this portion of Audubon’s protest.

**18. “Before proceeding, BLM must analyze the cumulative impacts of leasing the disputed November 2012 core area parcels in the context of previous or looming decisions...” (Audubon Protest at page 12).**

BLM Response

The EAs address cumulative impacts, for example in the November 2012 Sale EA at pages 87-91, including (at page 87):

*Offering the subject parcels for lease, and the subsequent issuance of leases, in and of itself, would not result in any cumulative impacts. The referenced RMPs/EISs provide cumulative affects analysis for oil and gas development based on the reasonable, foreseeable oil and gas development scenario. This analysis is here by incorporated by reference. The offering of the proposed lease parcels is consistent with that analysis.*

Other than pointing to the existence of previous lease sales and projects of which the BLM was already aware, Audubon has not provided data or new information to suggest that the cumulative impacts analysis provided in the EA and EISs to which it tiers is inadequate. For these reasons, we deny this portion of Audubon’s protest.

**19. “Columbian sharp-tailed grouse habitat should be deferred...” (Audubon Protest at page 13).**

BLM Response

Here, Audubon argues that parcels apparently located near or adjacent to Columbian sharp-tailed grouse habitat overlapping with Core Areas “present an especially compelling case for deferral” (Audubon Protest at page 14). Columbian sharp-tailed grouse are a BLM Sensitive Species,<sup>51</sup> but are not a candidate species under the ESA.

The BLM considered whether the reviewed parcels were located within sharp-tailed nesting habitat, near a sharp-tailed “dancing ground,” or within a sharp-tailed winter concentration area (for example, see November 2012 Sale EA at pages 11-29, 49). Audubon did not raise their concerns about parcels located in Columbian sharp-tailed grouse habitat when commenting on the EAs; nonetheless, the WSO requested that the field office re-review the stipulations applied to these challenged parcels. As a result of this re-review, the Rawlins Field Office identified two minor changes to two parcels. These changes are described in an Information Notice dated October 22, 2012. In this Notice, the BLM explained that a TL stipulation was being added to a parcel (-008). This oversight was due, in part, to the presence of a TL stipulation on the parcel for the exact same time period, though for greater sage-grouse. In addition, it was determined that a CSU stipulation was no longer necessary for another parcel (-087), and will be

<sup>50</sup> See Decision Record for the May 2012 Sale at pages 2-3, available at:

<http://www.blm.gov/style/medialib/blm/wy/information/NEPA/og/2012/05may/ver3.Par.34747.File.dat/hdd-dr.pdf>

<sup>51</sup> See BLM-Wyoming IM 2010-027 (“Update of the Bureau of Land Management, Wyoming, Sensitive Species List – 2010”), April 5, 2010.

removed. The Rawlins Field Office confirmed that all of the appropriate stipulations were applied to the other parcels challenged by Audubon in this argument. Audubon has not provided objective evidence that the sage-grouse stipulations applied to the 12 parcels (see Sale Notice at pages 6, 7, 46-50, and 60-65), as modified under the October 22, 2012 Information Notice, are not sufficient to ensure protection of Columbian sharp-tailed grouse. For these reasons we deny this portion of Audubon's protest.

**20. "BLM appears to be attempting to add 40 deferred parcels from November 2011 as an afterthought, absent any additional NEPA analysis or opportunity for public comment. This violates NEPA, notice requirements, sale procedures and the public's right to meaningfully participate in important decisions that could determine the fate of the greater sage-grouse in Wyoming and beyond." (Audubon Protest at page 14).**

#### BLM Response

Please refer to our response to Issue No. 4, above. Although Audubon asserts they were "unable to submit comments on the need to defer these parcels because they were absent from the EA" (Audubon Protest at page 4), the BLM did present and evaluate these parcels in the November 2011 Sale EA. The public was provided an opportunity to comment on the November 2011 Sale EA, to which the BLM responded.<sup>52</sup> Although Audubon did not submit comments on the November 2011 Sale EA, the BLM did provide such an opportunity to Audubon and other members of the public, as evidenced by the numerous comments to which the BLM responded.

As we have explained above, the BLM did conduct analysis pursuant to NEPA for the 40 parcels re-posted from the November 2011 Sale and provided an opportunity for the public to comment on the parcels at the time the November 2011 Sale EA was prepared. On October 22, 2012, the WSO also completed a Determination of NEPA Adequacy (DNA) as provided for under BLM policy (refer to the BLM's NEPA Handbook, H-1790-1, at pages 22-25). For the 40 parcels re-posted from the November 2011 Sale and considered in the November 2011 Sale EA, the DNA concluded "the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of NEPA."

The BLM has complied with NEPA's requirements and BLM policies for public involvement. For these reasons, we deny this portion of Audubon's protest.

#### **ISSUES – LADDER LIVESTOCK COMPANY LLC (LLC)**

LLC did not participate in public review of the EAs offered by the BLM.

**21. "We are the surface owners of [parcel WY-1211-088]. We are participating in the Department of Interior, U.S. Fish and Wildlife Service Sage Grouse Initiative. This exact parcel is enrolled in that program. We have signed a contract which obligates us to protect and enhance the existing habitat for Sage Grouse." (LLC Protest at page 1).**

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<sup>52</sup> The BLM's response to the public comments is provided in Appendix F to the November 2011 Sale EA, available at: <http://www.blm.gov/style/medialib/blm/wy/information/NEPA/og/1111/v3.Par.5604.File.dat/final-appF.pdf>

### BLM Response

The Sage Grouse Initiative (SGI)<sup>53</sup> is a program administered by the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS). The SGI provides benefits including monetary compensation to private landowners who agree to undertake certain actions, such as preparation of grazing management plans and prescribed grazing practices, fence retrofits, lek monitoring, and implementation of conservation easements.

The NRCS SGI issues contracts through the Working Lands for Wildlife (WLFW) effort. These contracts do not address mineral rights, and do not affect the BLM's management of Federal mineral estate.

LLC, as surface owners of a portion of this parcel, have entered into a contract with the NRCS. However, this contract does not affect the BLM's responsibility to manage the Federal mineral estate in accordance with applicable laws and regulations. Without disclosing the specific terms of LLC's contract, the BLM has determined that development of the Federal oil and gas estate is not incompatible with the goals and objectives of the SGI program for this parcel. The BLM has applied mitigation measures as lease stipulations to the subject parcel, and the BLM has substantial authority to require additional mitigation of lease development activities (should a lease be issued, and should lease development be proposed). In the case that entry to the lease by the lessee or a lease operator is proposed, Onshore Oil and Gas Order No. 1 (Part VI.) requires the BLM to consider the views of the surface estate owner prior to authorizing any development activities. Under U.S.C. § 299(a) (2000) and 43 C.F.R. § 3814.1, if a lessee or operator is unable to negotiate a surface access and use agreement which may include additional terms and conditions for benefit of the surface owner prior to lease development, the lessee must post a bond for applicable damages, such as damages to the surface owner's crops, tangible improvements, and the value of the land for grazing.

The BLM, in coordination with the NRCS, has found that offering this parcel for lease is compatible with the goals and objectives of the SGI program. For these reasons, we deny this portion of LLC's protest.

**22. "This parcel is also on our lambing grounds. We have concerns for both the disturbance caused by the proposed drilling, and the invasion of crows and ravens that inevitably follows. These corvids prey on both sage grouse and our lambs." (LLC Protest at page 1).**

### BLM Response

The BLM acknowledges these concerns, and will address potential impacts from operations at the time lease development operations are proposed, should a successful bid be received, the lease issued, and lease development actions be proposed for review by the BLM.

Parcel -088 includes 7 stipulations (including timing limitation stipulations from November 15 through July 31 of each year for the benefit of greater sage- and sharp-tailed grouse, raptors, and big game crucial winter range; and controlled surface use stipulations for several species including raptors, amphibians, and reptiles).

Prior to authorizing development of any Federal oil and gas lease, the BLM will prepare an environmental record of review (43 CFR 3162.5-1) and, in accordance with Onshore Oil and Gas Order No. 1, conduct

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<sup>53</sup> See <http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/programs/farmland/initiatives/?&cid=steldevb1027671>

onsite reviews of the proposal, document compliance with NEPA, post the an Application for Permit to Drill for 30 days prior to a decision, and ensure any disturbed areas are returned to productive use in accordance with the objectives of the RMP. The BLM, in coordination with the surface owner, may require additional measures to protect livestock operations and other resources and land uses.

In accordance with Onshore Oil and Gas Order No. 1 and BLM policy, the BLM will consider the views of the landowner should development of the split-estate portion of a lease be proposed (assuming a lease is issued and subsequent development activities are proposed), among other requirements provided by regulation and policy.

While LLC is concerned about impacts that may arise should these parcels be leased and then developed, LLC has not provided objective data or new information that calls into question the BLM's analysis and disclosure of impacts from offering this parcel in the November 2012 Sale. For the reasons described, we deny this portion of LLC's protest.

### **DECISION**

At the discretion of the BLM-Wyoming State Director, eleven parcels are deferred from the November 2012 Sale until a future oil and gas lease sale (WY-1211-015, -016, -018, -019, -021, -023, -024, -025, -026, -027, & -028). After a careful review, it was determined that all of the 81 remaining protested parcels described in the Notice of Competitive Oil and Gas Lease Sale will be offered at the November 6, 2012 sale. The protests to these 81 remaining parcels are denied or dismissed for the reasons described, above.

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 (Attachment 7). If an appeal is taken, your notice of appeal must be filed in this office (at the above address) 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 below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision, to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor (see 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 regulation, 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 protestor'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.



Larry Claypool  
Deputy State Director,  
Minerals and Lands

5 - Attachments

- 1 – BLM-Wyoming May 2012 Competitive Oil and Gas Lease Sale – Protested Parcels
- 2 – Recent and Pending Lease Sale Parcels, Adobe Town DRUA, and Adobe Town WSA
- 3 – Recent and Pending Lease Sale Parcels, Adobe Town WSA, Existing Active Wells and Units
- 4 – Leased Federal Oil and Gas Estate Within Wyoming Core Areas
- 5 – Form 1842-1

cc:

State Offices

District Manager, High Desert District

Field Manager, Kemmerer Field Office

Field Manager, Pinedale Field Office

Field Manager, Rawlins Field Office

Field Manager, Rock Springs Field Office

District Manager, High Plains District

District Manager, Wind River/Bighorn Basin District

Deputy State Director, Division of Minerals and Lands (920)

Deputy State Director, Division of Resources (930)

Chief, Branch of Fluid Minerals, Land, and Appraisal (921)

Chief, Branch of Leasing and Adjudication (923) e-mail & final copy on letterhead

Sue Moberly (923) e-mail & final copy on letterhead

Travis Bargsten (921) e-mail & final copy on letterhead

BLM-Wyoming November 2012 Oil and Gas Lease Sale Parcel Review (WY-1211)

Parcel Deferred or Deleted In Its Entirety

Portion of Parcel Deferred or Deleted

Parcel Offered In Its Entirety

By: T. Bargsten		10/18/2012															
Preliminary Parcel No.*	Final Parcel No.	FO(s)	GSG Core?	Adobe Town DRUA?	L=Lease, D=Defer, P=Partial, X=Delete			Acres			Remaining In Core?						
					BCA	TWS et al.	WRA	LLC	Defer/Delete	Final		In Core**	Protested				
-001	-001	RFO								160.00							
-002	-002	RFO								320.00							
-003	-003	RFO								598.60							
-004	-004	RFO	Y		X		X			1,468.88		1,468.88		1,468.88		1,468.88	Y
-005	-005	RFO	Y		X		X			800.00		800.00		800.00		800.00	Y
-006	-006	RFO	Y		X		X			1,717.72		1,717.72		1,717.72		1,717.72	Y
-007	-007	RFO	Y		X		X			480.00		480.00		480.00		480.00	Y
-008	-008	RFO	Y		X		X			40.00		40.00		40.00		40.00	Y
-009	-009	RFO			X		X			280.00		280.00		280.00		280.00	
-010	-010	RFO	Y		X		X		(40.00)	360.00		320.00		320.00		320.00	Y
-011	-011	RFO	Y						(120.00)	120.00		-		-		-	
-012	-012	RFO			X					320.00		320.00		320.00		320.00	
-013	-013	RFO			X					80.00		80.00		80.00		80.00	
-014	-013	RFO			X					1,840.00		1,840.00		1,840.00		1,840.00	
-015	-015	RFO	Y						(480.00)	480.00		-		-		-	
-016	-014	RFO	P		X		X		(400.00)	1,280.00		880.00		880.00		880.00	
-017	-017	RFO	Y						(640.00)	640.00		-		-		-	
-018	-015	RFO		Y	X		X		(1,919.14)	1,919.14		-		-		-	
-019	-016	RFO		Y	X		X		(1,443.59)	1,443.59		-		-		-	
-020	-017	RFO		Y	X		X			2,560.00		2,560.00		2,560.00		2,560.00	
-021	-018	RFO		Y	X		X		(518.92)	518.92		-		-		-	
-022	-019	RFO		Y	X		X		(1,878.60)	1,878.60		-		-		-	
-023	-020	RFO		Y	X		X		(1,920.00)	1,920.00		1,920.00		1,920.00		1,920.00	
-024	-021	RFO		Y	X		X		(1,920.00)	1,920.00		-		-		-	
-025	-022	RFO			X		X			1,268.46		1,268.46		1,268.46		1,268.46	
-026	-023	RFO		Y	X		X		(240.00)	240.00		-		-		-	
-027	-024	RFO		Y	X		X		(200.00)	200.00		-		-		-	
-028	-025	RFO		Y	X		X		(320.00)	320.00		-		-		-	
-029	-026	RFO		Y	X		X		(160.00)	160.00		-		-		-	
-030	-027	RFO		Y	X		X		(1,919.44)	1,919.44		-		-		-	
-031	-028	RFO		Y	X		X		(680.00)	680.00		-		-		-	
-032	-028	RFO	Y		X		X		(2,080.00)	2,080.00		-		-		-	
-033	-029	RFO		Y	X		X			1,787.37		1,787.37		1,787.37		1,787.37	
-034	-030	RFO		Y	X		X			1,934.33		1,936.33		1,936.33		1,936.33	
-035	-031	RFO		Y	X		X			80.00		80.00		80.00		80.00	
-036	-032	RSFO	Y		X		X		(438.60)	1,915.24		1,476.64		1,476.64		1,476.64	Y
-037	-033	RSFO								1,528.88		1,528.88		1,528.88		1,528.88	
-038	-034	RSFO	Y		X		X		(521.46)	1,923.36		1,401.90		1,401.90		1,401.90	Y
-039	-035	RSFO	P		X		X			1,938.68		1,938.68		1,600.32		1,938.68	P

BLM-Wyoming November 2012 Oil and Gas Lease Sale Parcel Review (WY-1211)

Parcel Deferred or Deleted In Its Entirety

Portion of Parcel Deferred or Deleted

Parcel Offered In Its Entirety

Preliminary Parcel No.*	Final Parcel No.	FO(s)	L=Lease, D=Defer, P=Partial, X=Delete				10/18/2012				Remaining In Core?		
			GSG Core?	Adobe Town DRUA?	Protested		Reviewed	Defer/Delete	Final Acres	In Core**		Protested	
					BCA	TWS et al.							WRA
-040	-036	RSFO	P			X	X	800.00		800.00	469.47	800.00	P
-041	-037	RSFO				X	X	1,756.16		1,756.16	0.18	1,756.16	
-042	-038	RSFO						1,897.20		1,897.20			
-043	-039	RSFO	P			X	X	1,908.88		1,908.88	309.48	1,908.88	P
-044	-040	RSFO	Y			X	X	1,920.00	(600.00)	1,320.00	1,320.00	1,320.00	Y
-045	-041	RSFO						2,311.50		2,311.50			
-046	-042	RSFO	P			X	X	1,921.32		1,921.32	643.77	1,921.32	P
-047	-043	RSFO	P			X	X	1,671.59	(80.36)	1,591.23	888.94	1,591.23	P
-048	-044	RSFO						1,040.00		1,040.00			
-049		RSFO	Y					1,957.86	(1,957.86)	-			
-050		RSFO	Y					1,195.56	(1,195.56)	-			
-051		RSFO	Y					2,393.08	(2,393.08)	-			
-052		RSFO	Y					2,560.00	(2,560.00)	-			
-053		RSFO	Y					2,240.00	(2,240.00)	-			
-054		RSFO	Y					2,067.92	(2,067.92)	-			
-055		RSFO	Y					1,839.87	(1,839.87)	-			
-056		RSFO	P					1,568.67	(1,568.67)	-			
-057		RSFO	Y					1,986.53	(1,986.53)	-			
-058		RSFO	Y					1,800.00	(1,800.00)	-			
-059		RSFO	Y					29.42	(29.42)	-			
-060		RSFO	Y					1,319.39	(1,319.39)	-			
-061		RSFO	Y					974.36	(974.36)	-			
-062	-045	RSFO	P			X	X	1,259.74		1,259.74	1,100.77	1,259.74	P
-063		RSFO	Y					1,280.00	(1,280.00)	-			
-064		RSFO	Y					2,412.40	(2,412.40)	-			
-065		RSFO	Y					1,760.00	(1,760.00)	-			
-066		RSFO	Y					1,440.00	(1,440.00)	-			
-067	-046	RSFO	P			X	X	2,513.68	(479.46)	2,034.22		2,034.22	
-068	-047	RSFO				X	X	1,920.00		1,920.00		1,920.00	
-069	-048	RSFO						1,600.00		1,600.00			
-070	-049	RSFO				X	X	1,922.04		1,922.04		1,922.04	
-071	-050	RSFO				X	X	2,040.00		2,040.00		2,040.00	
-072	-051	RSFO	P			X	X	2,520.00	(480.00)	2,040.00		2,040.00	
-073	-052	RSFO	P			X	X	2,430.76	(360.00)	2,070.76		2,070.76	
-074	-053	RSFO				X	X	2,366.40		2,366.40		2,366.40	
-075	-054	RSFO	P			X	X	1,920.00	(40.00)	1,880.00		1,880.00	
-076		PFO						640.00	(640.00)	-			
-077	-055	RSFO						1,476.52		1,476.52			
-078	-056	RSFO						2,440.00		2,440.00			

BLM-Wyoming November 2012 Oil and Gas Lease Sale Parcel Review (WY-1211)

Parcel Deferred or Deleted in Its Entirety

Portion of Parcel Deferred or Deleted

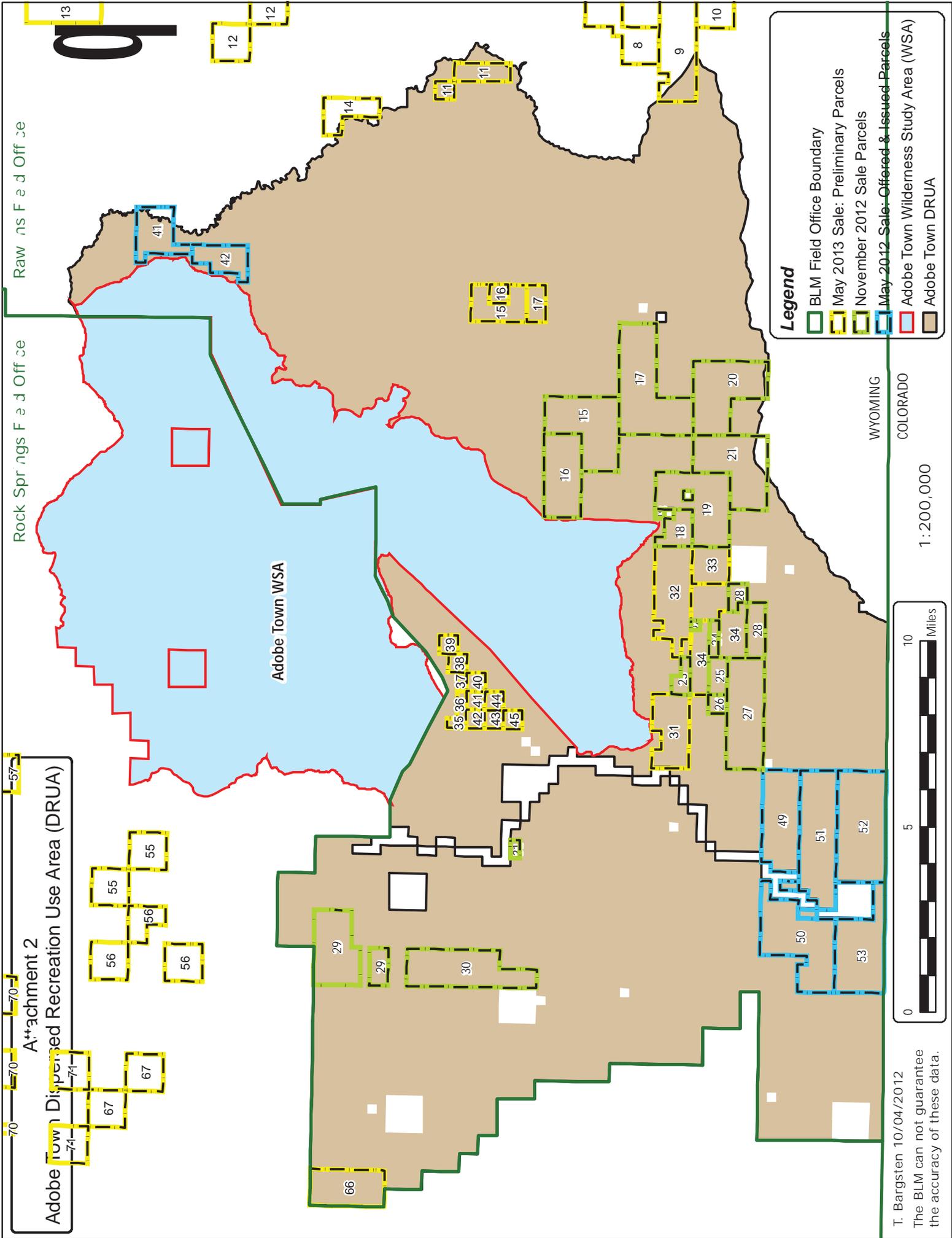
Parcel Offered in Its Entirety

Preliminary Parcel No.*	Final Parcel No.	FO(s)	GSG Core?	Adobe Town DRUA?	Protested			Reviewed	Defer/Delete	Acres		In Core**	Protested	Remaining In Core?
					BCA	TWS et al.	WRA			LLC	Final			
-079	-057	KFO	P		X		X	2,278.93		2,278.93	873.08	2,278.93	P	
-080	-058	KFO			X			40.00		40.00		40.00		
-081	-059	KFO			X			400.00		400.00		400.00		
-082	-060	KFO	Y		X		X	1,287.44	(967.44)	320.00	320.00	320.00	Y	
-083	-061	KFO						160.00		160.00				
-084	-062	RFO	Y		X		X	1,478.32		1,478.32	1,478.32	1,478.32	Y	
-085	-063	RFO	Y		X		X	240.00		240.00	240.00	240.00	Y	
-086	-064	RFO	Y		X		X	1,785.26		1,785.26	1,785.26	1,785.26	Y	
-087	-065	RFO	Y		X		X	205.98		205.98	205.98	205.98	Y	

Parcels Reposted From November 2011 Sale Notice WY-1111

-003	-066	RFO	Y		X		X	2,375.75		2,375.75	180.17	2,375.75	P
-004	-067	RFO	Y		X		X	2,434.94	(315.47)	2,119.47	2,119.47	2,119.47	Y
-005	-068	RFO	Y		X		X	2,220.70		2,220.70	1,491.25	2,220.70	P
-006	-069	RFO	Y		X		X	2,397.87	(720.22)	1,677.65	1,677.65	1,677.65	Y
-007	-070	RFO	Y		X		X	2,534.74	(240.00)	2,294.74	1,669.28	2,294.74	P
-008	-071	RFO	Y		X		X	1,591.24	(200.00)	1,391.24	1,391.24	1,391.24	Y
-009	-072	RFO	Y		X		X	925.19		925.19	925.19	925.19	Y
-010	-073	RFO	Y		X		X	2,528.78	(440.00)	2,088.78	2,088.78	2,088.78	Y
-011	-074	RFO	Y		X		X	760.00		760.00	760.00	760.00	Y
-012	-075	RFO	Y		X		X	930.48		930.48	315.50	930.48	P
-013	-076	RFO	Y		X		X	39.65		39.65	39.65	39.65	Y
-014	-077	RFO	Y		X		X	1,160.00		1,160.00	1,160.00	1,160.00	Y
-015	-078	RFO	Y		X		X	160.00		160.00	160.00	160.00	Y
-016	-079	RFO	Y		X		X	1,319.86		1,319.86	289.05	1,319.86	P
-019	-080	RFO	Y					720.00	(480.00)	240.00			
-020	-081	RFO	Y		X		X	920.00		920.00	920.00	920.00	Y
-021	-082	RFO	Y					40.00	(40.00)				
-022	-083	RFO	Y		X		X	640.00	(560.00)	80.00		80.00	
-023	-084	RFO	Y		X		X	2,480.00	(850.00)	1,630.00	1,232.57	1,630.00	P
-024	-085	RFO	Y		X		X	1,200.13	(40.00)	1,160.13	431.49	1,160.13	P
-025	-086	RFO	Y		X		X	749.30	(319.77)	429.53	429.53	429.53	Y
-026	-087	RFO	Y		X		X	200.00	40.00	240.00	240.00	240.00	Y
-027	-088	RFO	Y		X		X	240.00	(200.00)	40.00	40.00	40.00	Y
-028	-089	RFO	Y		X		X	1,040.41		1,040.41	1,040.41	1,040.41	Y
-029	-090	RFO	Y					269.13	(269.13)				
-030	-091	RFO	Y		X		X	416.93		416.93	416.93	416.93	Y
-033	-092	RFO	Y		X		X	2,487.79	(361.04)	2,126.75		2,126.75	
-035	-093	RFO	Y		X		X	40.03		40.03	40.03	40.03	Y
-042	-094	RFO	Y		X		X	30.00		30.00	13.24	30.00	P

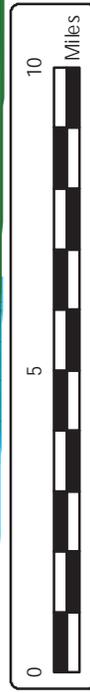




Adobe Town Dispersed Recreation Use Area (DRUA)  
Attachment 2

**Legend**

- BLM Field Office Boundary
- May 2013 Sale: Preliminary Parcels
- November 2012 Sale Parcels
- May 2012 Sale - Offered & Issued Parcels
- Adobe Town Wilderness Study Area (WSA)
- Adobe Town DRUA



T. Bargsten 10/04/2012  
The BLM can not guarantee the accuracy of these data.

1:200,000

WYOMING  
COLORADO

**Attachment 3**  
**Oil & Gas Leasing and Development**  
**in the Adobe Town WSA Vicinity (WY)**

67  
 56  
 55  
 56  
 67  
 67  
 56  
 55  
 67

Rock Springs Field Office

Adobe Town WSA

Rawlins Field Office

**Legend** Data current as of July 1, 2012 g

- BLM Field Office Boundary
- May 2013 Sale: Preliminary Parcels
- November 2012 Sale: Sale Notice Parcels
- May 2012 Sale: Offered & Issued Parcels
- Federal Oil & Gas Unit
- Leased - Not Held By Production
- Leased - Held By Production
- Active Oil & Gas Well
- Adobe Town Wilderness Study Area (WSA)
- Adobe Town Citizens' Proposed Wilderness
- Kinney Rim Citizen's Proposed Wilderness

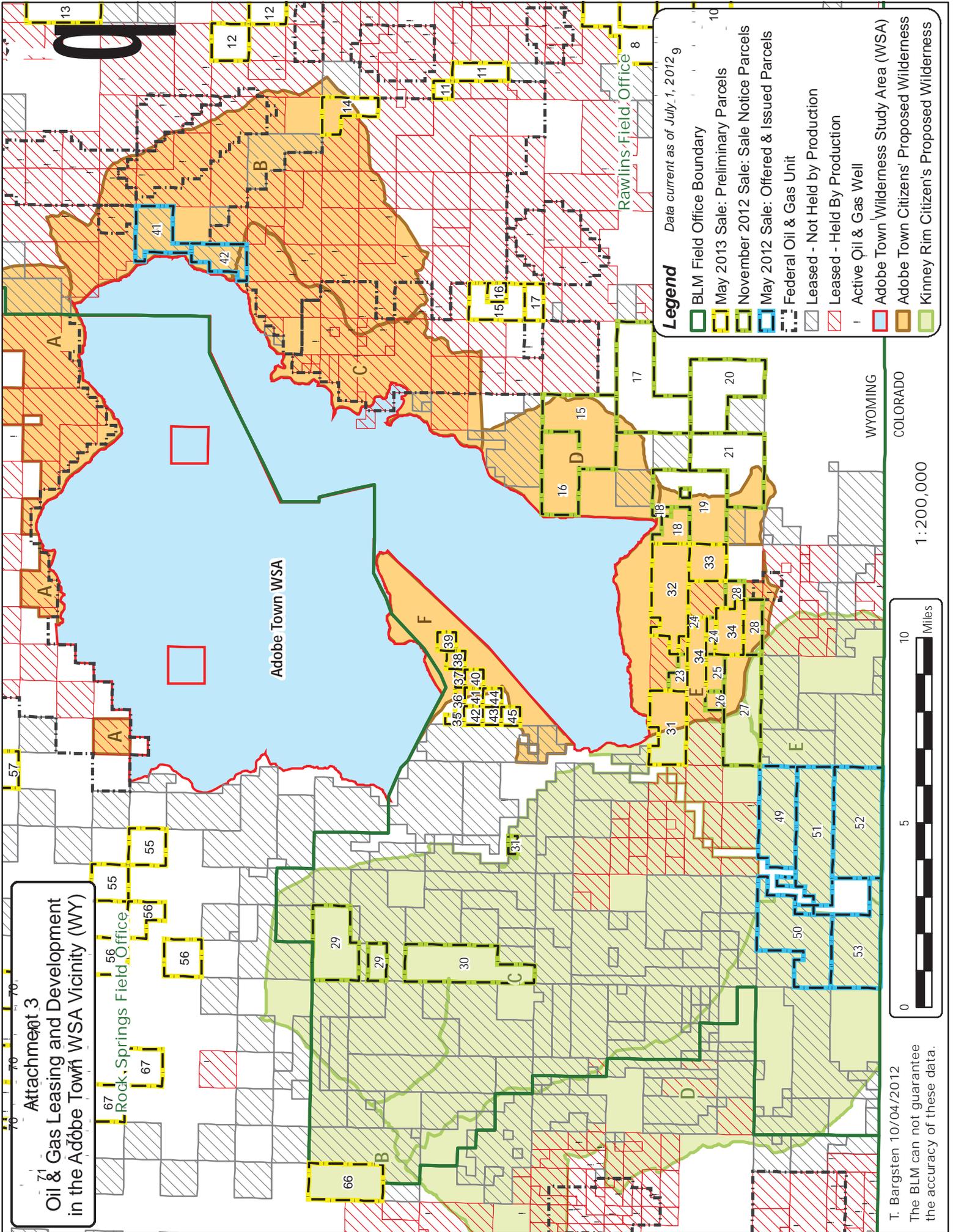


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WYOMING

COLORADO

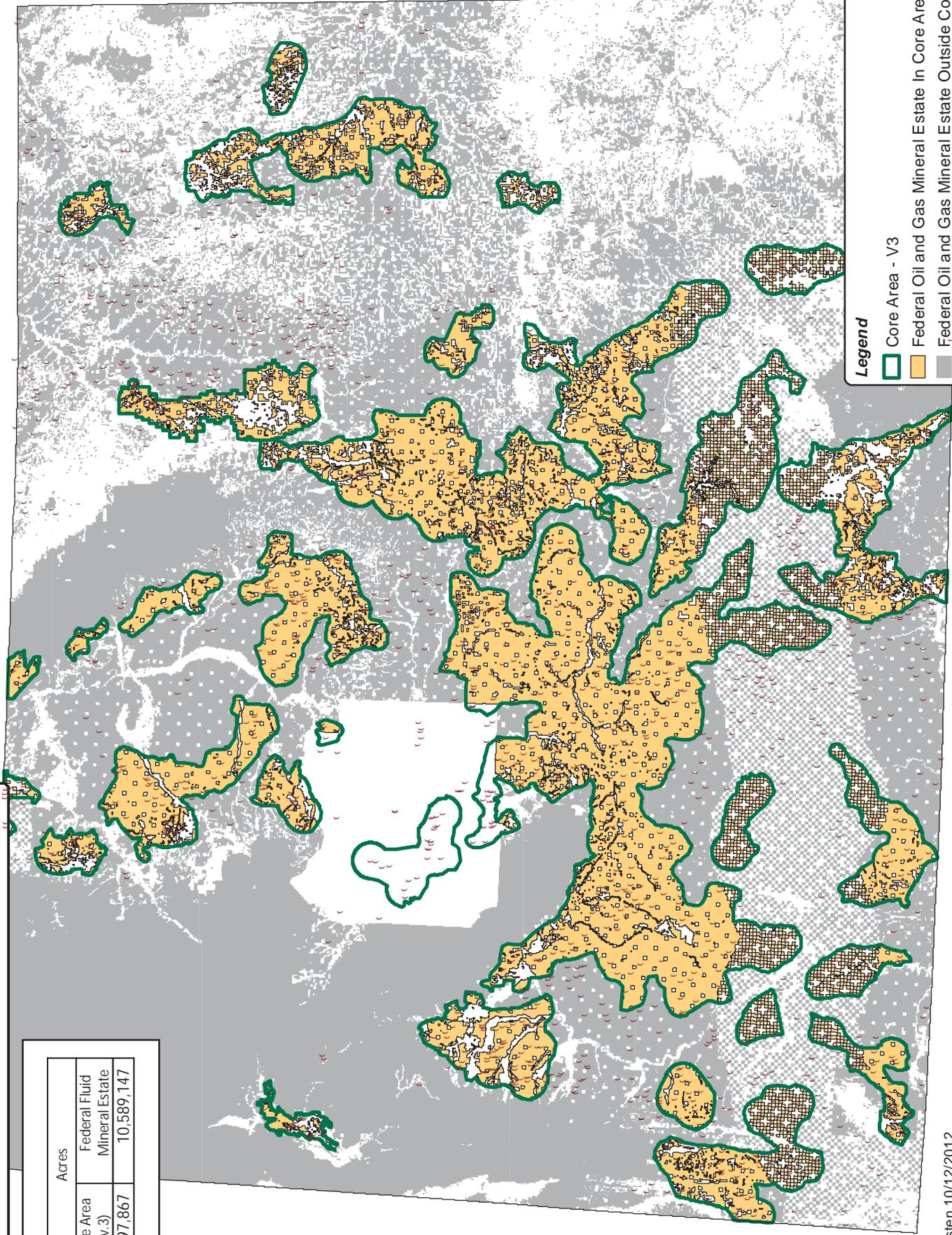
T. Bargsten 10/04/2012  
 The BLM can not guarantee  
 the accuracy of these data.



## Attachment 4

# Federal Oil and Gas Mineral Estate Within State of Wyoming Sage-Grouse Core Areas

Acres	
Core Area (v.3)	Federal Fluid Mineral Estate
15,297,867	10,589,147



**Legend**

- Core Area - V3
- Federal Oil and Gas Mineral Estate In Core Areas
- Federal Oil and Gas Mineral Estate Outside Core Areas
- Occupied Greater Sage-Grouse Lek (2011)

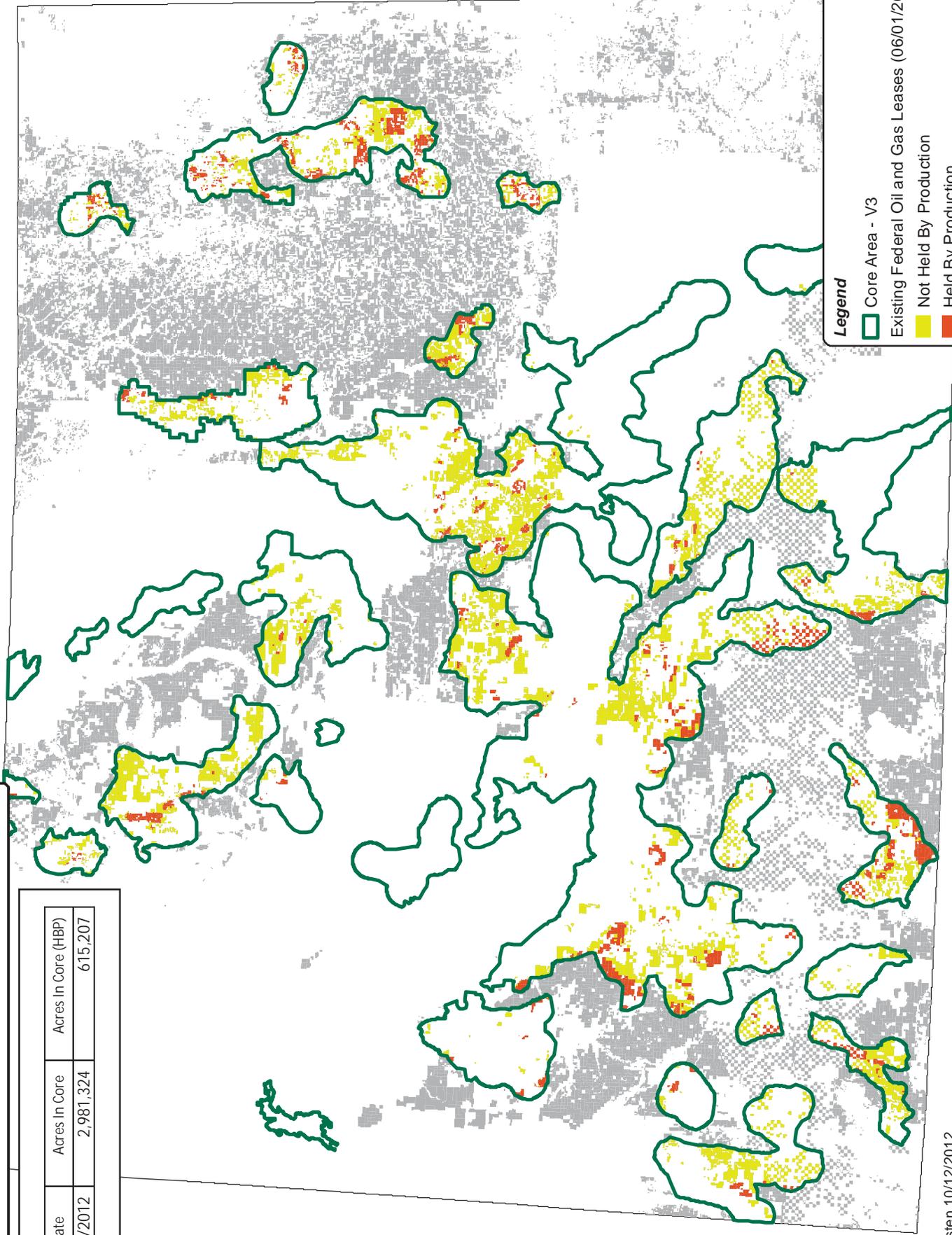
T. Bargsten 10/12/2012

The BLM can not guarantee the accuracy of these data.

1:2,500,000

# Leased Federal Oil and Gas Mineral Estate Within State of Wyoming Sage-Grouse Core Areas

Date	Acres In Core	Acres In Core (HBP)
6/1/2012	2,981,324	615,207



**Legend**

- Core Area - V3
- Existing Federal Oil and Gas Leases (06/01/2012)
- Not Held By Production
- Held By Production

T. Bargsten 10/12/2012  
 The BLM can not guarantee the accuracy of these data.

1:2,500,000

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**

**1. NOTICE OF APPEAL.....**

A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to 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).

**2. WHERE TO FILE**

NOTICE OF APPEAL.....

WITH COPY TO SOLICITOR...

**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.....

**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).

**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)).

**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 2801.10 or 43 CFR 2881.10). 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.

### 43 CFR SUBPART 1821—GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

#### STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska  
Arizona State Office ----- Arizona  
California State Office ----- California  
Colorado State Office ----- Colorado  
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri  
and, all States east of the Mississippi River  
Idaho State Office ----- Idaho  
Montana State Office ----- Montana, North Dakota and South Dakota  
Nevada State Office ----- Nevada  
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas  
Oregon State Office ----- Oregon and Washington  
Utah State Office ----- Utah  
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.