

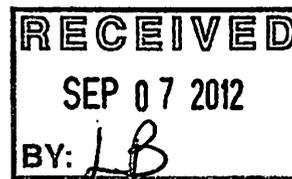


**WESTERN RESOURCE  
ADVOCATES**

TRANSMITTED & FILED BY FAX TO: 307-775-6203 (hard copy by U.S. Mail)

September 7, 2012

Don Simpson, State Director  
Bureau of Land Management  
5353 Yellowstone Road  
P.O. Box 1828  
Cheyenne, WY 82003



**RE: Protest & Statement of Reasons**

**58 greater sage-grouse core area parcels proposed for the BLM WSO  
November 6, 2012 Oil & Gas Lease Sale:**

**Parcel Nos. WY-1208-004, 005, 006, 007, 008, 010, 032, 034, 035, 036, 037,  
039, 040, 042, 043, 045, 057, 060, 062, 063, 064, 065, 066, 067, 068, 069, 070,  
071, 072, 073, 074, 075, 076, 077, 078, 079, 081, 083, 084, 085, 086, 087, 088,  
089, 091, 092, 094, 095, 096, 097, 098, 099, 100, 101, 102, 103, 104 & 105**

Dear Mr. Simpson:

The Bureau of Land Management's November 6, 2012 oil and gas lease sale proposes to offer 58 parcels (the "Disputed Parcels") comprising tens of thousands of acres of public land or mineral estate within identified greater sage-grouse Core Population Areas (or core areas). This Protest requests deferral of the core area parcels listed above for the reasons stated below.

**1. Audubon & Rocky Mountain Wild's Interest**

National Audubon Society, Audubon Rockies, Audubon Wyoming (collectively, "Audubon") and Rocky Mountain Wild are concerned that the sale and subsequent development of these protested core area parcels would further jeopardize the viability and recovery of the greater sage-grouse. Audubon comments on the Environmental Assessment prepared for the lease sale requested deferral of all lands in core areas by letter dated June 8, 2012.

Audubon's interests are succinctly stated by the Society's mission: "To conserve and restore natural ecosystems, focusing on birds, other wildlife, and their habitats for the benefit of humanity and the earth's biological diversity." Audubon Wyoming's mission "is to be a strong, unified voice for an ethic of conservation in Wyoming, focusing on birds, other wildlife and their habitats, for the benefit of present and future generations."

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The vision of Audubon Wyoming is “[o]pen spaces rich in birds and other wildlife, and citizens who enjoy that richness.” Leasing these lands threatens to undermine Audubon’s mission and compromise its vision.

Audubon Wyoming was a key participant in the Wyoming Sage Grouse Implementation Team deliberations that crafted the Core Population Areas Strategy. Audubon is a leading advocate for BLM’s current science-based planning efforts across the bird’s range and in Wyoming. Audubon Wyoming is dedicated to ensure that the Core Areas Strategy and BLM range-wide planning strategies succeed. Success depends on conservative management, including strict interim protections for core areas pending implementation of new policies informed by the best available science.

Audubon members and staff visit the disputed lands for aesthetic and recreational pursuits centered on viewing, studying and appreciating the greater sage-grouse and the overall functioning of healthy sagebrush ecosystems. Members and staff live and work near these lands, and travel to observe sage-grouse and contribute to the species’ conservation. Approving leasing of the protested parcels could harm Audubon through drilling approvals resulting in permanent environmental damage, or lease issuance that could detract from conservation efforts.

Audubon is dedicated to successfully implementing conservation policies that will result in the recovery of populations and healthy habitat; and avoiding the need to list the bird under the Endangered Species Act (ESA).

Rocky Mountain Wild (“RMW”) is a non-profit environmental organization based in Denver, Colorado, that works to conserve and recover the native species and ecosystems of the Greater Southern Rockies using the best available science. RMW was formed in July 2011 by the merging of two organizations, Center for Native Ecosystems (“CNE”) and Colorado Wild, and is the legal successor to both parties. Colorado Wild has worked for over a decade to protect, preserve, and restore the native plants and animals of the Southern Rocky Mountains.

CNE and Colorado Wild have long participated in BLM planning and management activities, including Wyoming BLM oil and gas leasing decisions and planning processes for Wyoming BLM Field Offices. RMW continues the work of each organization to save endangered species and preserve landscapes and critical ecosystems. It achieves these goals by working with biologists and landowners, utilizing GIS technology to promote understanding of complex land-use issues, and monitoring government agencies whose actions affect wildlife, including endangered and threatened species. Its members include approximately 1,200 outdoor enthusiasts, wildlife conservationists, scientists, and concerned citizens across the country.

RMW’s staff and members visit, recreate on, and use lands on or near the parcels proposed for leasing. Staff and members enjoy various activities on or near land proposed for leasing, including viewing and studying rare and imperiled wildlife and native ecosystems, hiking, camping, taking photographs, and experiencing solitude. Staff

and members plan to return to the subject lands in the future to engage in these activities, and to observe and monitor rare and imperiled species and native ecosystems. RMW is committed to ensuring that federal agencies properly manage rare and imperiled species and native ecosystems. Members and professional staff conduct research and advocacy to protect the populations and habitat of rare and imperiled species discussed herein. RMW has worked extensively to protect the greater sage-grouse, including building public awareness. Protecting the sagebrush ecosystem will also ensure protection for the many species that live there. Our members and staff value the important role that areas of high conservation value should play in safeguarding rare and imperiled species and natural communities, and other unique resources on public land.

RMV members' interests in rare and imperiled species and ecosystems on BLM lands will be adversely affected if the sale of these parcels proceeds as proposed. Oil and gas leasing and development risks significant harm to sage-grouse recovery.

BLM and other stakeholders are aware of the protesting parties' commitment to constructive, collaborative advocacy efforts to identify and implement science-based conservation measures to reach the shared goal of maintaining and enhancing sage-grouse populations and the sagebrush ecosystem.

## **2. Summary of Parcels and Concerns**

Protesters support BLM's decision to defer certain parcels in Core Population Area parcels from the sale (FONSI at 1, stating that 21 whole parcels and 11 portions of parcels will be deferred). Deferral should be extended to all core area habitat. BLM's NEPA analysis does not support the proposed decision. The unsigned Finding of No Significant Impact (FONSI) should defer all core area parcels at this time.

The decision approving leasing of the disputed core area parcels violates NEPA and FLPMA:

- NEPA requires that BLM make informed decisions by taking a hard look at the environmental impacts of its decisions.
- BLM disregarded significant new scientific information, including the BLM National Technical Team Report, the United States Fish & Wildlife Service (USFWS) Sage-Grouse Conservation Objectives Draft Report, and Breeding Density Maps identifying the most valuable remaining sage-grouse habitat.
- BLM violated NEPA by failing to analyze the potential for direct, indirect and cumulative impacts to sage-grouse conservation of pre-existing and additional leasing in core areas.
- BLM's decision is inconsistent with range-wide conservation efforts and uninformed by the crucial importance of conservation efforts in Wyoming.
- BLM failed to analyze the hugely significant potential impacts of a full FSA listing.
- BLM violated NEPA by not analyzing a Grouse Conservation Alternative proposed by Audubon that would defer *all* core area parcels.

- BLM violated NEPA by failing to adequately analyze the potential for direct, indirect and cumulative impacts to sage-grouse conservation.
- Columbian Sharp-Tailed Grouse habitat should also be protected from leasing.
- The 40 parcels added after the initial sale notice, and not included in the NEPA analysis originally available for public comment, must be removed from this sale.

Deferring the disputed parcels will advance the goals of BLM's ongoing National Sage-Grouse Planning Strategy and preserve the options for Resource Management Plan (RMP) alternatives that maximize sage-grouse conservation. Leasing the protested parcels would undercut this important planning effort and conflict with BLM's goal "to maintain and enhance populations and distribution of sage-grouse[.]" Audubon's biological analysis of the conservation value of the disputed parcels is summarized in Exhibit 3A, the Expert Comments of Alison Holloran.

The proposed sale parcels overlapping with Core Population Areas are listed in the Excel table attached as Exhibit 2A to this protest and Appendix C to the EA.

Additional leasing of greater sage-grouse core area habitat at this time would likely: 1) have significant impacts on the greater sage-grouse's prospects for recovery and survival, and 2) push the species towards a listing decision that could result in significant socio-economic and environmental impacts across Wyoming and the region. BLM has yet to conduct NEPA analysis of the potential cumulative impacts of continuing to lease core area parcels in Wyoming, although the total acreage continues to increase along with the potential for significant adverse impacts to conservation and recovery efforts.

Energy development is recognized as the leading threat to recovery goals in the Rocky Mountain region, but carefully crafted strategies now under way offer great hope of learning from past mistakes and reversing past trends to better balance future development with sage-grouse conservation. Recovery of healthy populations is crucially important to the environmental and economic health of the eleven western states in the bird's range, and nowhere more so than in Wyoming.

The November 2012 lease sale is further complicated by the inexplicable effort to offer 40 additional core area parcels not analyzed in the EA. BLM apparently deferred these parcels from the November 2011 sale pending a consistency review with BLM national range-wide sage-grouse conservation planning. Audubon was unable to submit comments on the need to defer these parcels because they were absent from the EA.

25 of the disputed core area parcels (4, 5, 6, 7, 62-79, 81, 83 and 84) are in the Hanna Core Area, Rawlins Field Office. Exhibit 1D. 5 of those parcels are in 25% regional breeding density polygons (67, 69, 81, 83 and 84), and 14 are in the 50% polygons. Exhibit 2A.

9 of the disputed core area parcels (8, 10, 85-89, 91 and 92) are within the South Rawlins core area, Rawlins Field Office, and are important for connectivity to the Northwest Colorado population. Exhibit 1D and 1E. 2 of these parcels (88 and 92) are in 25% and

50% regional breeding density polygons. Exhibit 2A. Holloran explains the biological importance of the South Rawlins parcels : “this area serves as habitat for a much larger multi-state grouse population and should be thought of and managed as one population instead of two distinct populations[.]” Exhibit 3 at 2 and Exhibit 1E (connectivity map). These parcels also raise cumulative impacts concerns not analyzed by BLM due to their location directly west of the proposed Chokecherry Sierra Madre wind project and TransWest transmission line. Exhibit 3 at 2.

10 of the disputed core area parcels are in the Continental Divide Core Area, Rock Springs Field Office. Exhibit 1C. 6 of these parcels are in 25% and 50% regional breeding density polygons. Exhibit 2A.

Disputed core area parcel 57 is in the Uintah Core Area of the Kemmerer Field Office; and parcel 60 is a 25% breeding density parcel in the Sage Core Area of the Kemmerer Field Office. Exhibits 1B and 2A.

Disputed core area parcels 94-96 are in the Uinta Core Area, Kemmerer and Rock Springs Field Office. Exhibits 1B and C. Parcels 95 and 96 are in 50% regional breeding density polygons. Exhibit 2A.

9 of the disputed core area parcels (96-105) are in the Sage Core Area, Kemmerer Field Office. Exhibits 1B and C. Parcels 99-102 and 104 are in 25% polygons; and 96 and 103 are also in 50% polygons. Exhibit 2A.

In full, 19 of the 58 parcels are within the 25% regional breeding density polygons. Exhibit 2A. 34 total parcels (an additional 15 from the 19 parcels in the 25%) are also within the 50% regional breeding density polygons. *Id.* 12 of the 58 parcels overlap Columbian Sharp-tailed Grouse habitat (8, 10, 67-70, and 85-91) per habitat range delineated in the 2005 Species of Greatest Conservation Need Analysis.

**3. BLM violated NEPA by failing to ensure that its decision was informed by a hard look at the environment impacts of leasing additional core area habitat pending completion of BLM’s National Planning Strategy.**

NEPA requires informed decisions. “NEPA does not, however, require agencies to elevate environmental concerns over other appropriate considerations; it requires only that the agency take a ‘hard look’ at the environmental consequences before taking a major action.” Citizens’ Comm. to Save Our Canyons v. Krueger, 513 F.3d 1169, 1178 (10th Cir. 2008) (citation and internal quotation marks omitted). Here, BLM’s decisions were uninformed by a hard look at the potential impacts.

Core Population Areas are necessary for the protection of this candidate species and integral to conservation strategies being implemented by the State of Wyoming and BLM. See IM 2010-012 and 2010-013, and Wyoming EO 2011-5. Core habitat is the nesting and early brood rearing habitat for over eighty percent of the greater sage-grouse breeding population in Wyoming. See

<http://gf.state.wy.us/habitat/SagebrushSageGrouse/index.asp>. The range-wide population of the greater sage-grouse has already experienced as much as a ninety percent decline from historic records. Ongoing and reasonably foreseeable future intrusions into sage-grouse habitat led the U.S. Fish & Wildlife Service (USFWS or the Service) to determine that listing the greater sage-grouse as threatened or endangered is warranted, but currently precluded by more urgent priorities. *See* 75 Fed. Reg. 13910-14014 (March 23, 2010).

BLM's unsigned FONSI (at 7) asserts that listed or sensitive species "will not be affected because surface use restrictions, including timing limitation stipulations (TLS), no surface occupancy (NSO) stipulations, and controlled surface use (CSU) stipulations, 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. *See* Exhibits 4A and 4B (Audubon Request for Stay and Reply in IBLA Docket No: 2012-209, challenging the leasing of 42 core area parcels in the May 2012 BLM WSO lease sale), subject to an Audubon IBLA Appeal and Request for Stay which we hope will result in a remand). The argument, analysis and authorities in these documents are incorporated by reference into this Protest.

Wyoming is the stronghold for greater sage-grouse and the sagebrush landscape. Conservation measures in Wyoming will determine the fate of the Rocky Mountain Region population, and possibly the entire species. Deferring core area lands from the sale, and protecting these lands from future leasing in subsequent decisions until 2014, is critical for the recovery of the species. Extensive recent peer-reviewed scientific research, much of it conducted in Wyoming, establishes the negative impacts of oil and gas development on sage-grouse populations. *See* Exhibit 4A at 3-12 and 18-26.

**4. BLM failed to take a hard look at significant new scientific information regarding the threats of energy development to sage-grouse conservation efforts.**

NEPA guards against "uninformed – rather than unwise – agency action." Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 351 (1989). Here, 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 tied to by the leasing EA.

The March 2010 USFWS decision that listing the greater sage-grouse is "warranted, but precluded," establishes the urgent need to develop and implement substantive conservation measures between now and 2015, when the Service will reconsider the status of the bird. This finding clearly establishes the inadequacy of existing RMP measures governing oil and gas in priority habitat, including the various stipulations attached to the disputed parcels.

The leasing of parcels within priority core habitat is inconsistent with BLM's on-going range-wide conservation effort. All core area parcels should be deferred until the regional planning effort has been completed. If leasing within core continues, USFWS could 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.

At some point, 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.

BLM's own science demonstrates that impacts from leasing will push the species closer to a full listing. Pending final decisions on RMP amendments and the regional planning process, BLM needs to proceed cautiously consistent with its own planning strategy. Leasing will undermine the goal of maintaining, enhancing or restoring existing habitat conditions – to avoid dooming conservation efforts from the start. Leasing and subsequent development would degrade habitat and threaten already dwindling populations. The negative impacts would accelerate long-term trends resulting from past management policies that continue to contribute to the need for a full ESA listing.

**a. BLM must analyze and apply the National Technical Team Report before leasing additional core areas.**

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 National Greater Sage-Grouse Conservation Measures" produced by the BLM's Sage-grouse National Technical Team (Technical Team Report). BLM's analysis of the lease parcels is inadequate, and its decision uninformed, because it was not revisited to consider the scientific recommendations of the Technical Team Report.

Energy development impacts include change in habitat use patterns (use of lower quality habitats), avoidance, noise disturbances, increases in invasive species, death due to collision and electrocution, decreased lek recruitment, habitat fragmentation, cumulative impacts, and creation of travel routes for land predators. Before allowing any leasing of core habitat, BLM should consider the Technical Team Report findings and recommendations on energy development as well as invasive and nonnative species. See Report at 17, 33 (definition of "Conserve"); and Alternatives section below.

Leasing is the point of an irretrievable commitment of resources. New Mexico ex rel. Richardson v. Bureau of Land Management, 565 F.3d 683, 718 (10th Cir. 2009). Existing measures in RMPs have proven inadequate according to the abundant new scientific studies. Speculative conditions of approval on future APDs cannot constitute adequate regulatory measures.

**b. 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.**

The 2010 USFWS decision that listing the greater sage-grouse is “warranted but precluded,” establishes the urgent need to develop and implement substantive conservation measures between now and 2015, when the Service will reconsider the status of the bird. This finding establishes that efforts to date, including the use of outdated timing and seasonal stipulations as proposed for core area parcels not deferred are inadequate.

BLM has taken proactive measures in recent months, launching the regional strategy that focuses on the conservation of sage-grouse and the protection of their habitat. Scoping for the Rocky Mountain Region populations for BLM’s range-wide planning process was conducted earlier this year. But the DEIS is still several months out. At this point in time, a conservative approach to grouse conservation must defer to the Technical Team recommendations.

Parcels overlapping designated core areas should be deferred until the regional planning effort is completed. 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. Furthermore, 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 the completion of regional conservation planning efforts, will push the species closer to a full listing and must therefore be avoided. Pending final decisions on RMP amendments and the regional planning process that apply the recommendations of the Technical Team Report, BLM should proceed with caution and avoid any additional leasing of core areas. Further leasing of core areas at this time is likely to significantly impact existing sage-grouse habitat and populations, although the impacts might occur until it is too late.

The introduction of the Technical Team Report recognizes that “Anthropogenic habitat impacts and lack of regulatory mechanisms to protect against further losses provided the basis for warranting listing under the Endangered Species Act (ESA) in 2010 (75 FR 13910).” Report at 4. The Report states that it seeks to provide “the latest science and best biological judgment to assist in making management decisions.” *Id.* at 5. As such, the Report is vital to proposed actions such as the potential leasing of the Disputed Core Population Parcels. BLM’s failure to consider the Report requires deferral of the protested parcels.

The Technical Team recommendations to protect core areas are consistent with the conservative approach proposed by a coalition of eighteen conservation groups dedicated to sage-grouse recovery that pre-dated the Team’s Report. See August 27, 2011 letter to

Secretary Ken Salazar, re: Conservation community's interest in range-wide conservation of greater sage-grouse.

In addition to negatively impacting BLM's regional efforts, 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 (specifically the "hard look", new information and cumulative impacts provisions), 4) compromise the Audubon Vision of "Open spaces rich in birds and other wildlife, and citizens who value that richness;" 5) violate Federal Land Policy Management Act provisions, including the multiple-use, sustained-yield mandate and unnecessary 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 agency's stewardship responsibility of the nation's public lands and wildlife resources.

Relying on hypothetical or not-yet-determined post-leasing mitigation measures cannot justify leasing core habitat without considering the best available science. Wyoming and neighboring states already contain hundreds of thousands of acres of valid leases in sage-grouse habitat. Uninformed decisions to authorize even more leasing of core habitat at this time would violate NEPA.

Core areas should remain intact until new management recommendations have been finalized after considering the comments of interested stakeholders. Decisions must incorporate all significant new scientific information regarding the status of the sage-grouse, population trends, the state of its habitat; and conservation measures needed to avoid pushing it further towards a listing.

**c. NEPA also requires consideration of the USFWS Sage-Grouse Conservation Objectives Draft Report, which further supports deferral of the disputed core area parcels.**

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-side 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: the USFWS Sage-Grouse Conservation Objectives Draft Report (August 1, 2012)(USFWS Conservation Objectives Report); <http://www.fws.gov/mountain-prairie/species/birds/sagegrouse/20120803conservationobjectivesteamdraftreport.pdf>.

BLM's NEPA analysis failed to consider this new report and compilation of science. Leasing cannot proceed absent such analysis.

**5. NEPA requires consideration of the *Grouse Conservation Alternative* that would defer all parcels in priority core area habitat.**

Audubon's comments on the EA proposed a reasonable sage-grouse conservation alternative that would defer all parcels in core areas. BLM is required to analyze this reasonable alternative. BLM violated NEPA by declining to analyze the Grouse Conservation Alternative proposed by Audubon. The Grouse Conservation Alternative is tailored to advance the sage-grouse conservation goals of multiple federal agencies, states and stakeholders. It would help ensure that regulatory mechanisms are informed by the best available science.

Audubon's Grouse Conservation Alternative is a reasonable approach that would significantly improve the agency's NEPA analysis. First, instead of simply applying existing sage-grouse screens, the Grouse Conservation Alternative would defer decisions until they could be fully informed by the best available science and impending planning decisions to be finalized by 2014. Second, it would be significantly less likely to contribute to a 2015 USFWS finding that inadequate regulatory mechanisms require an ESA listing. All stakeholders recognize the importance of keeping conservation options open as range-wide planning proceeds.

Third, the Grouse Conservation Alternative would better balance conservation and development considerations by 1) recognizing the current down market conditions for natural gas that have dampened demand and severely curtailed investments in new exploration wells; and 2) significantly improve the prospects of realizing BLM's sage-grouse conservation goal of maintaining and/or enhancing habitat.

BLM's Technical Team Report provides abundant support for the Grouse Conservation Alternative. The Report documents the threat posed by oil and gas development, which underlies the recommendation to "[p]ropose lands within priority sage-grouse habitat areas for mineral withdrawal." Report at 14. The Minerals section summarizes various categories of threats to grouse from:

- 1) direct disturbance, displacement, or mortality of grouse;
- 2) direct loss of habitat, or loss of effective habitat through fragmentation and reduced habitat patch size and quality; and
- 3) Cumulative landscape-level impacts."

Id. at 18.

The Report further documents significant adverse impacts from energy development:

There is strong evidence from the literature to support that surface-disturbing energy or mineral development within priority sage-grouse habitats is not consistent with a goal to maintain or increase populations or distribution. None of the published science reports a positive influence of development on sage-grouse populations or habitats. Breeding populations are severely reduced at well pad densities commonly permitted (Holloran 2005, Walker et al. 2007a). Magnitude

of losses varies from one field to another, but findings suggest that impacts are universally negative and typically severe. [ . . . ]

Avoidance of energy development at the scale of entire oil and gas fields should not be considered a simple shift in habitat use but rather a reduction in the distribution of sage-grouse (Walker et al. 2007). Avoidance is likely to result in true population declines if density dependence, competition, or displacement of birds into poorer-quality adjacent habitats lowers survival or reproduction (Holloran and Anderson 2005, Aldridge and Boyce 2007, Holloran et al. 2010). High site fidelity in sage-grouse also suggests that unfamiliarity with new habitats may also reduce survival, as in other grouse species (Yoder et al. 2004).

Id. at 19 (emphasis supplied).

The Report specifically addresses long-term studies in the Pinedale Anticline Project Area establishing displacement of populations, cumulative impacts, and significant time lags between initial development and documented impacts. Id. at 20. “[A]pplying NSO or other buffers around leks at any distance is unlikely to be effective.” Id. Rather than relying on timing restrictions, “we recommend excluding mineral development and other large scale disturbances from priority habitats where possible, and where it is not limit disturbance as much as possible.” Id. at 21. (emphasis supplied).

The Grouse Conservation Alternative would allow leasing outside the disputed core areas. Contrary to BLM’s assertion in the unsigned FONSI (at 4), leasing of core areas is highly controversial – and there is enormous scientific controversy regarding the adequacy of the proposed stipulations. Contrary to BLM’s assertion in the unsigned FONSI, impacts on the human environment from a full listing of the grouse are “highly uncertain” and involve “unique or unknown risks.” The potential impacts and controversy are significant, triggering a full EIS before proceeding with additional core area leasing.

For the unleased Core Population Area parcels subject to this Appeal, excluding mineral development is still possible. The BLM must consider a Grouse Conservation Alternative before offering the protested parcels.

**6. BLM needs to conduct additional analysis of the potential for direct, indirect and cumulative impacts under NEPA.**

Comprehensive cumulative impacts analysis is especially essential between now and decisions to be finalized in 2014 and 2015 for this landscape level scale species for which energy development impacts to habitat are the main threat in Wyoming. According to USFWS:

Fragmentation of sagebrush habitats has been cited as the primary cause of the decline of greater sage-grouse populations. Greater sage-grouse are a landscape

scale species, requiring large expanses of sagebrush to meet all seasonal habitat requirements. [\* \* \*]

Greater sage-grouse populations are negatively affected by energy development activities (primarily oil, gas, and coal-bed methane), especially those that degrade important sagebrush habitat, even when mitigative measures are implemented. Impacts can result from direct habitat loss, fragmentation of important habitats by roads, pipelines and powerlines, and direct human disturbance. The negative effects of energy development often add to the impacts from other human development, resulting in declines in greater sage-grouse populations.

Population declines associated with energy development results from abandonment of leks, decreased attendance at the leks that persist, lower nest initiation, poor nest success and chick survival, decreased yearling survival, and avoidance of energy infrastructure in important wintering habitat. Energy exploration and development is projected to increase over the next 20 years.

USFWS Questions & Answers for the Greater Sage-Grouse Status Review at 5-6 (emphasis supplied).

The pace at which parcels located within core areas are being proposed for leasing and drilling threatens to undercut efforts to recover the species and its habitat. The science is clear that the direct, indirect and cumulative impacts of energy development threaten to further drive the sage-grouse towards threatened or endangered status and possible extinction – if current trends and impacts continue. Tens of thousands of acres of core habitat are already leased in Wyoming; many of which are experiencing intensive oil and gas development or could be reasonably foreseen to be developed in the near future. See BLM maps for the Kemmerer, Rawlins and Rock Springs Field Offices depicting oil and gas leases and active wells in the vicinity of the disputed core area parcels. Accordingly, BLM must allow existing range-wide planning processes to analyze the potential impacts to grouse conservation of developing existing leases, before approving new leases in core area habitat.

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 regarding:

- Leasing of 42 parcels for a total of 45,686 acres in the May 2012 WSO lease sale;
- Leasing of 12 parcels of core area habitat in the August 2012 lease sale; and
- The Chokecherry Sierra Madre wind farm project adjacent to seven Rawlins parcels. See Exhibit 3 at 2.

The urgency to re-visit the cumulative impacts analysis in existing RMPs and EAs is supported by a September 28, 2011 federal court decision that was not mentioned by BLM's NEPA analysis. Western Watersheds Project v. Salazar, Case No. 4:08-CV-516-BLW (D. Idaho 2011). WWP remanded the Pinedale, Wyoming and Craters of the

Wyoming and Craters of the Moon, Idaho RMPs for violations of NEPA and FLPMA. The deficiencies in the Pinedale RMP involved both energy development and grazing analysis in the remanded RMP. The court found that:

The data presented in the Pinedale EIS, discussed at length above, at least raises a serious question that the sage grouse population, along with its habitat, is in decline in the Pinedale Field Office. The Pinedale EIS concludes that “[i]mpacts on wildlife would likely occur under all alternatives because of substantial loss of vital, high-value habitats.” *EIS* at 4-294.

Two factors in this loss of habitat, identified by the EIS, are energy development and grazing. *Id.*

Slip Op. at 30. As stated above, the Technical Team Report also recognized the severe negative impacts on grouse conservation documented by recent research focused on energy development on public lands in the Pinedale area.

WWP found that BLM had conducted inadequate cumulative impacts analysis of energy development within and adjacent to the Pinedale Field Office.

The EIS was faced with substantial energy development not only in the Pinedale Field Office but also in the adjoining Kemmerer Field Office. *See 72 Fed. Reg. 58113* (2007) (providing notice of draft EIS for Moxa Arch Area Infill Gas Development Project in the Kemmerer Field Office covering 475,808 acres). Yet there was no cumulative impact analysis of that development.

Slip Op. at 31-32.

For the protested parcels, BLM has yet to update its cumulative impacts analysis. BLM must analyze how sage-grouse populations and habitat could be impacted by future development on existing leases in core habitat. Deferring the core area parcels is necessary in light of the potential for significant direct, indirect and cumulative impacts of the leasing decision in the context of other reasonably foreseeable impacts.

#### **7. Columbian Sharp-Tailed Grouse habitat should be deferred.**

The Columbian sharp-tailed grouse (CSTG) is one of seven subspecies of sharp-tailed grouse. “It is endemic to big sagebrush (*Artemisia tridentata*), shrub-steppe, mountain shrub, and riparian shrub plant communities of western North America. The subspecies currently occupies less than 10 percent of its historic range, with only three metapopulations remaining in central British Columbia, southeastern Idaho and northern Utah, and northwestern Colorado and south-central Wyoming.

Today, viable populations occur in only three counties in Colorado and one county in Wyoming. The CSTG is recognized as a “*Species of Greatest Conservation Need*” by the Wyoming Game & Fish Department, “*State Special Concern*” species by the Colorado

Division of Wildlife, and "State Species of Concern" by the Utah Division of Wildlife Resources.

The Wyoming Game and Fish Department classifies the Columbian sharp-tailed grouse as a Species of Special Concern with a Native Species Status of 3 (NSS3) because populations are restricted in numbers and distribution, and habitat is vulnerable. Energy development in the Baggs and Savery area may be impacting the population in the Little Snake River drainage. See Wyoming Game and Fish State Wildlife Action Plan 2010 at page IV-1-46;

[http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/SWAP\\_COLUMBIANSHARP\\_TAILGROUSE0000431.pdf](http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/SWAP_COLUMBIANSHARP_TAILGROUSE0000431.pdf). The species is impacted by energy development and other large-scale projects that destroy or impair suitable habitats. *Id.*

The twelve CRCT parcels (8, 10, 67-70, and 85-91) overlapping with core areas present an especially compelling case for deferral.

**8. The 40 parcels originally deferred from the November 2011 lease sale must be deferred, because they were not included in the initial sale listing or analyzed by the NEPA documents for the November 2012 sale.**

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.

The 40 parcels represent a significant amount of remaining unleased core area habitat, and development under outdated stipulations could influence the USFWS listing decision expected in 2015. These parcels must be deferred from the November 2012 sale.

## **9. Conclusion & Request for Relief**

BLM should analyze and adopt a Grouse Conservation Alternative that would defer all of the protested core area parcels at least until final RMP and planning decisions are made in 2014. Offering the protested parcels would violate NEPA and FLMMA, and could have significant impacts in the likely event that it results in a full listing decision under ESA. The pendency of range-wide planning and the failure of existing NEPA documents to reach a decision informed by a hard look at significant new scientific and regulatory information require granting this Protest.

Audubon and WRA look forward to working collaboratively on future planning efforts regarding the recovery of the greater sage-grouse and its habitat across Wyoming and neighboring states. We appreciate BLM's review of the issues raised by this Protest and look forward to working collaboratively on future planning efforts intended to result in the recovery of the sage-grouse and its habitat across Wyoming and neighboring states.

Sincerely,



Mike Chiropolos  
Attorney for Audubon and Rocky Mountain Wild for this Protest  
Chief Counsel, Lands Program  
**Western Resource Advocates**  
2260 Baseline Rd., Suite 200  
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303-444-1188 x217  
[mike@wcsternresources.org](mailto:mike@wcsternresources.org)  
[www.westernresourceadvocates.org](http://www.westernresourceadvocates.org)

cc: Mike Pool, Acting BLM Director  
Dwight Fielder, BLM Division Chief of Fish, Wildlife and Plant Conservation  
Jessica Rubado, BLM National Sage-grouse Coordinator  
Johanna Munson, BLM Rocky Mountain Region Project Manager  
Dan Ashe, USFWS Director  
Pat Deibart, U.S. Fish & Wildlife Service  
Jerimiah Rieman, Resource Policy Advisor to Governor Mead  
Mary Flanderka, Wyoming Game & Fish Department  
Brian Rutledge, Alison Holloran & Daly Edmunds, Audubon  
Matt Sandler & Megan Mueller, Rocky Mountain Wild

**LIST OF EXHIBITS TO PROTEST****Exhibit 1: Audubon Maps**

- Exhibit 1A** Audubon Map of Final November 2012 Wyoming Oil & Gas Lease Sale Parcels Overlapping Greater Sage-grouse Core Area
- Exhibit 1B** Audubon Map of Final November 2012 Wyoming Oil & Gas Lease Sale Parcels Overlapping Greater Sage-grouse Core Area in Kemmerer Field Office
- Exhibit 1C** Audubon Map of Final November 2012 Wyoming Oil & Gas Lease Sale Parcels Overlapping Greater Sage-grouse Core Area in Rock Springs Field Office
- Exhibit 1D** Audubon Map of Final November 2012 Wyoming Oil & Gas Lease Sale Parcels Overlapping Greater Sage-grouse Core Area in Rawlins Field Office
- Exhibit 1E** Audubon Map of Final November 2012 Wyoming Oil & Gas Lease Sale Parcels in Core Area that Provides Connectivity to Colorado Populations in Rawlins Field Office
- Exhibit 1F** Audubon Map of Final November 2012 Wyoming Oil & Gas Lease Sale Parcels Overlapping Greater Sage-grouse Core Area & Columbian Sharp-tailed Grouse Habitat
- Exhibit 1G** Audubon Map of Final November 2012 Wyoming Oil & Gas Lease Sale Parcels Overlapping Greater Sage-grouse Core Area & Columbian Sharp-tailed Grouse Habitat in Rawlins Field Office

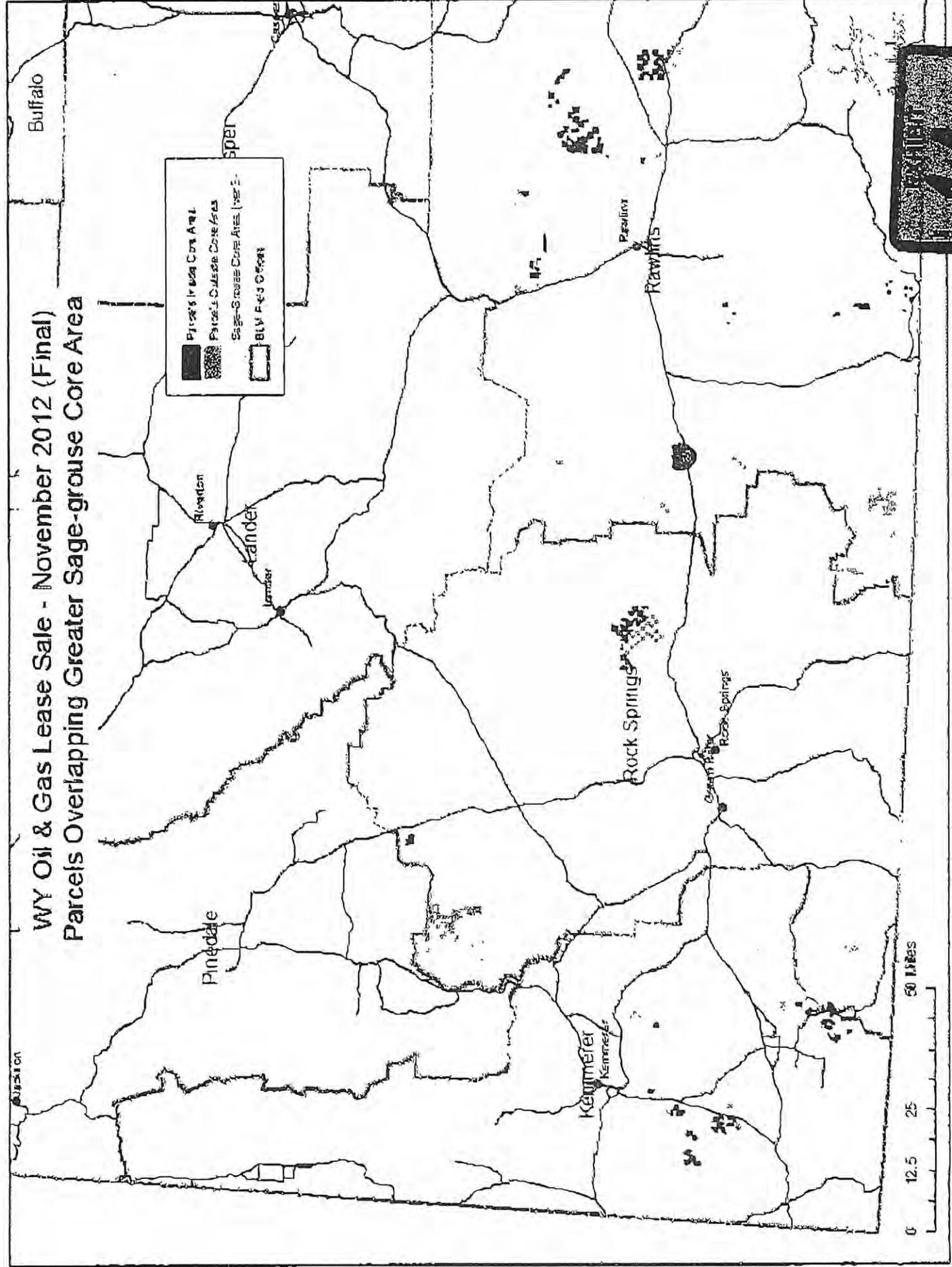
**Exhibit 2:** Excel spreadsheet containing parcel numbers within BLM Field Office regions, including Core Area Name, serial number, Regional Breeding Density for Greater Sage-grouse and whether the parcel also contains Sharp-tailed grouse habitat

**Exhibit 3:** Expert comments of Alison Holloran, Director of Science – Rocky Mountain Region, Audubon Rockies

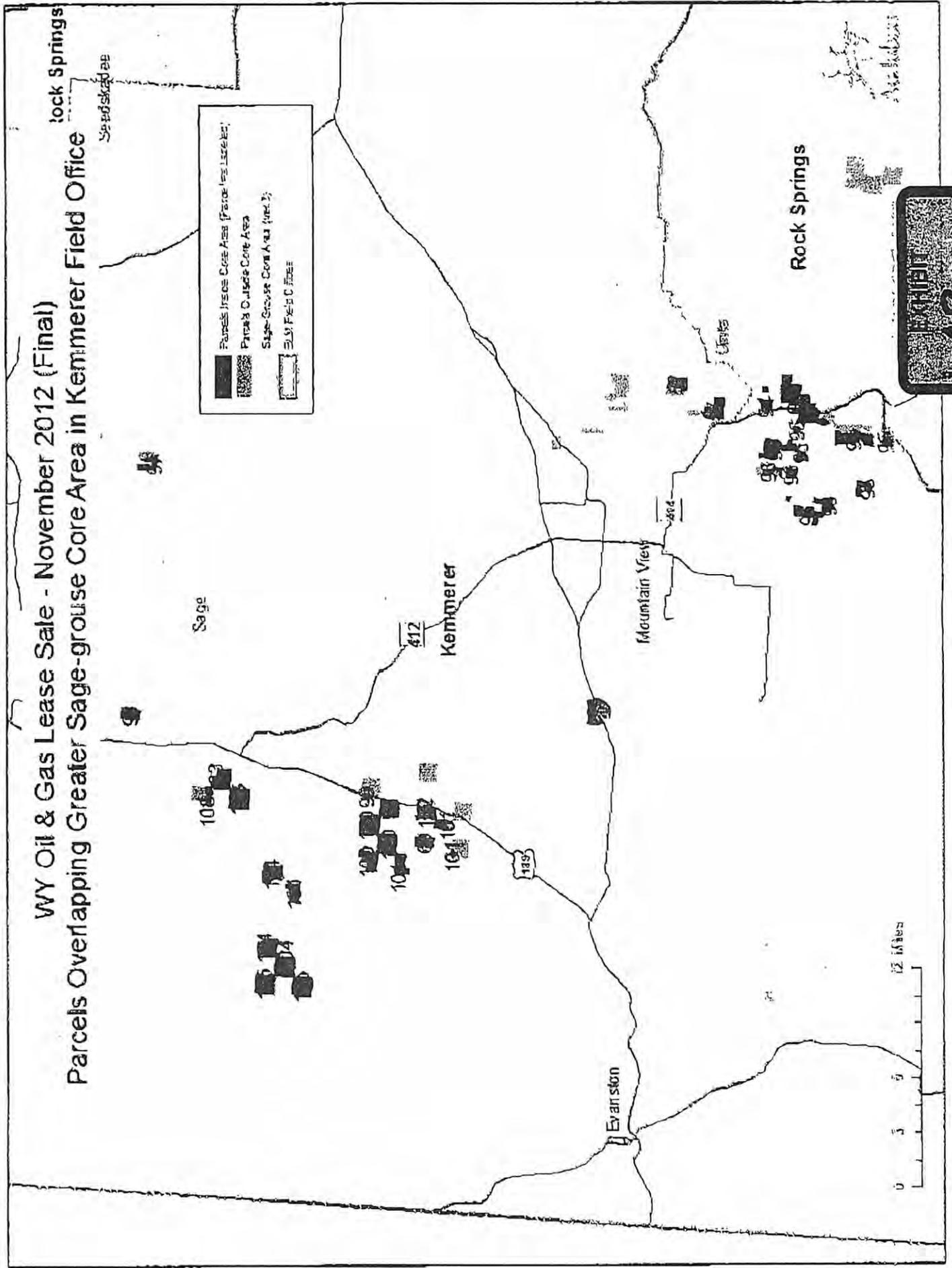
**Exhibit 4:** IBLA Briefs in Docket No: 2012-209 (Audubon Appeal of May 2012 BLM WSO lease sale including greater sage-grouse core area habitat)

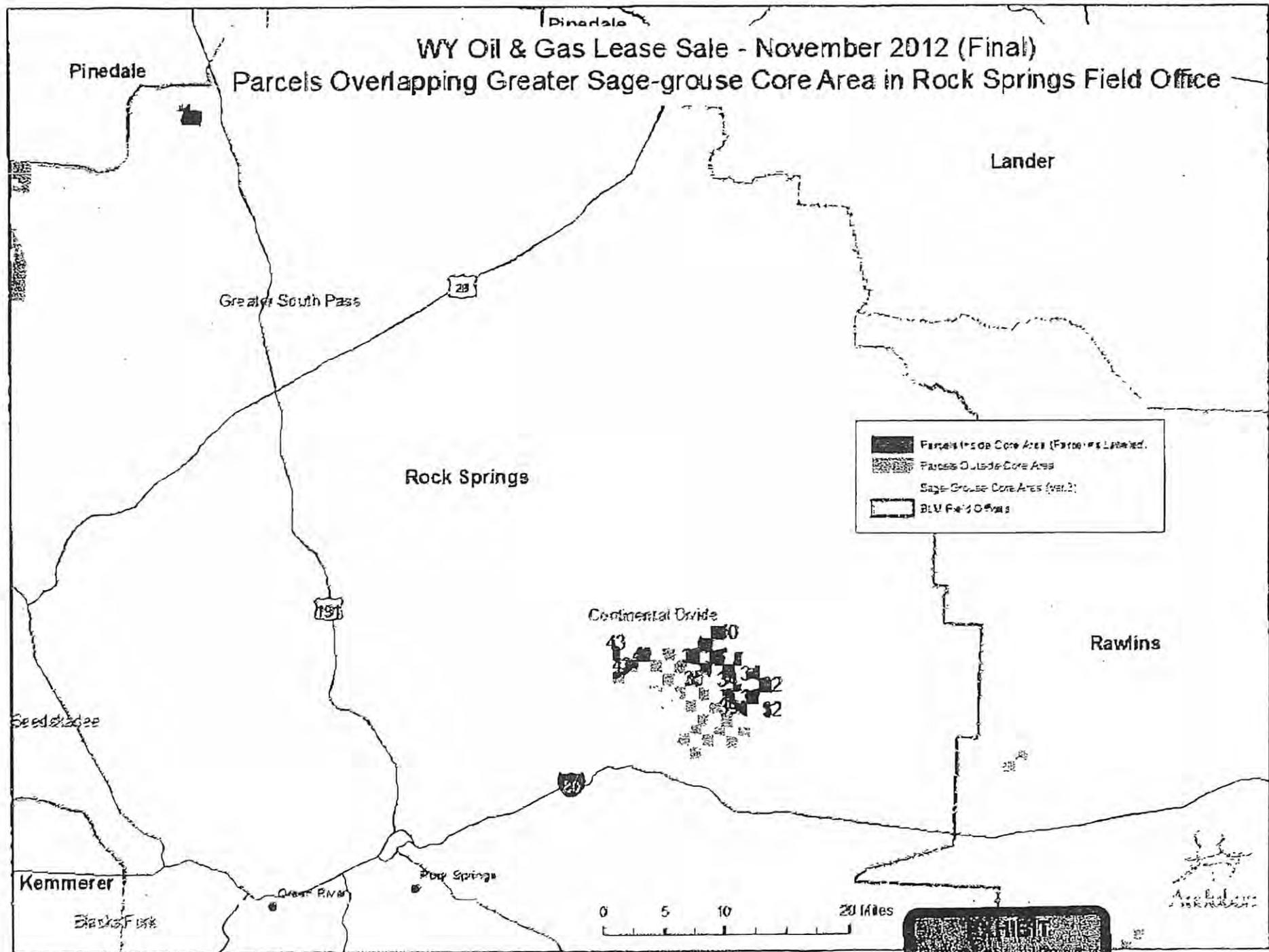
**Exhibit 4A** Audubon's Request for Stay

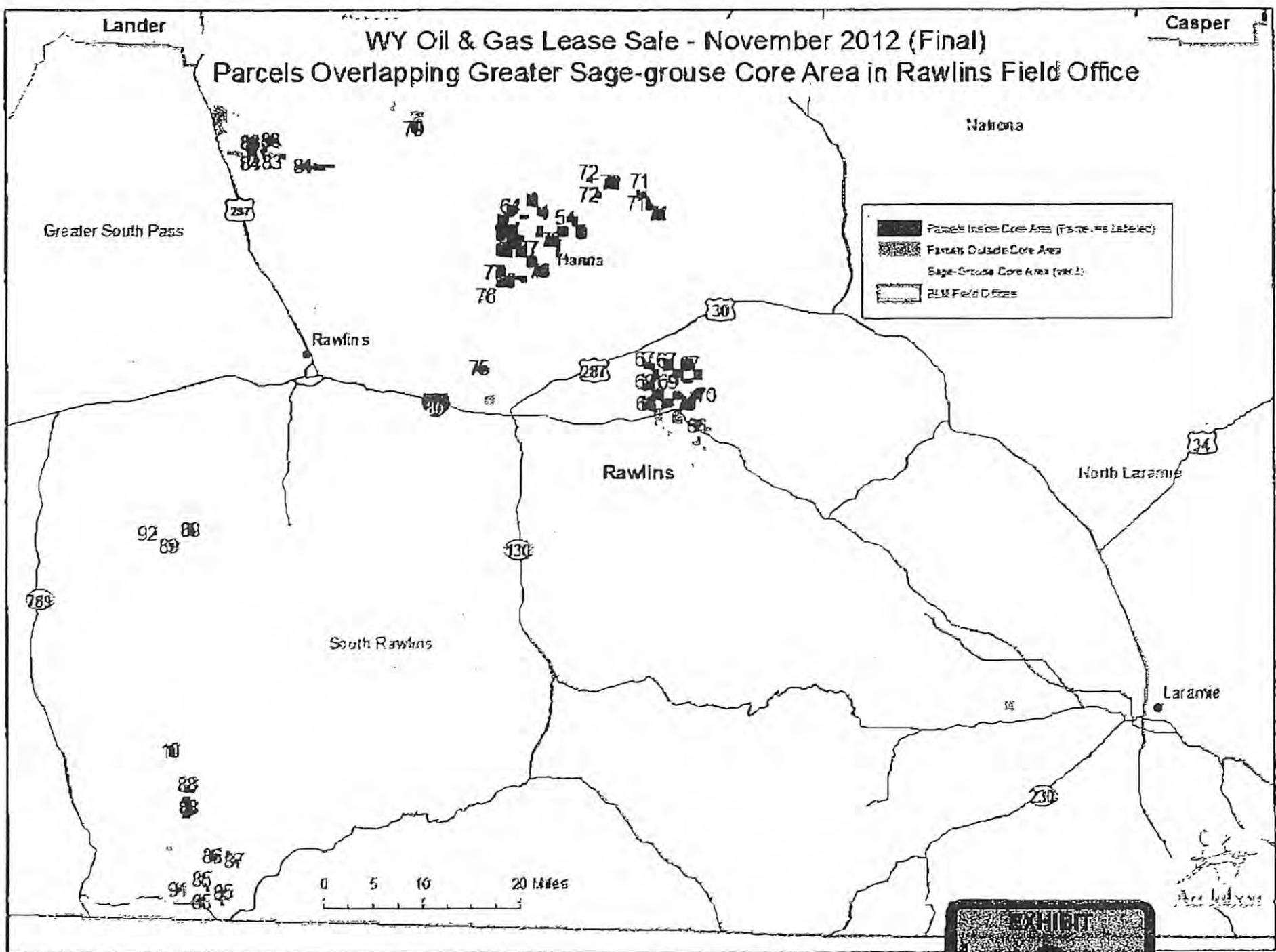
**Exhibit 4B** Audubon's Reply



# WY Oil & Gas Lease Sale - November 2012 (Final) Parcels Overlapping Greater Sage-grouse Core Area in Kemmerer Field Office

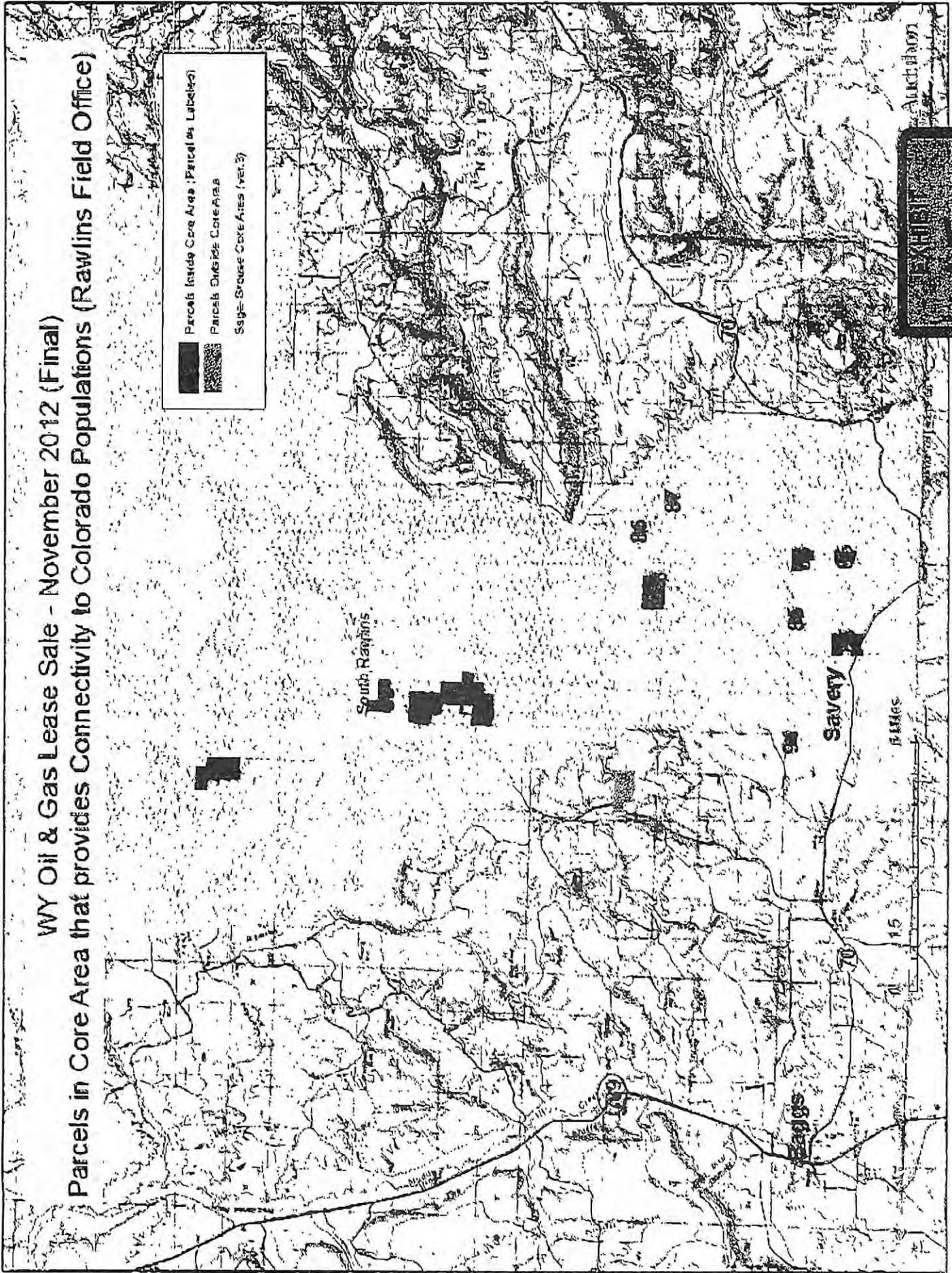






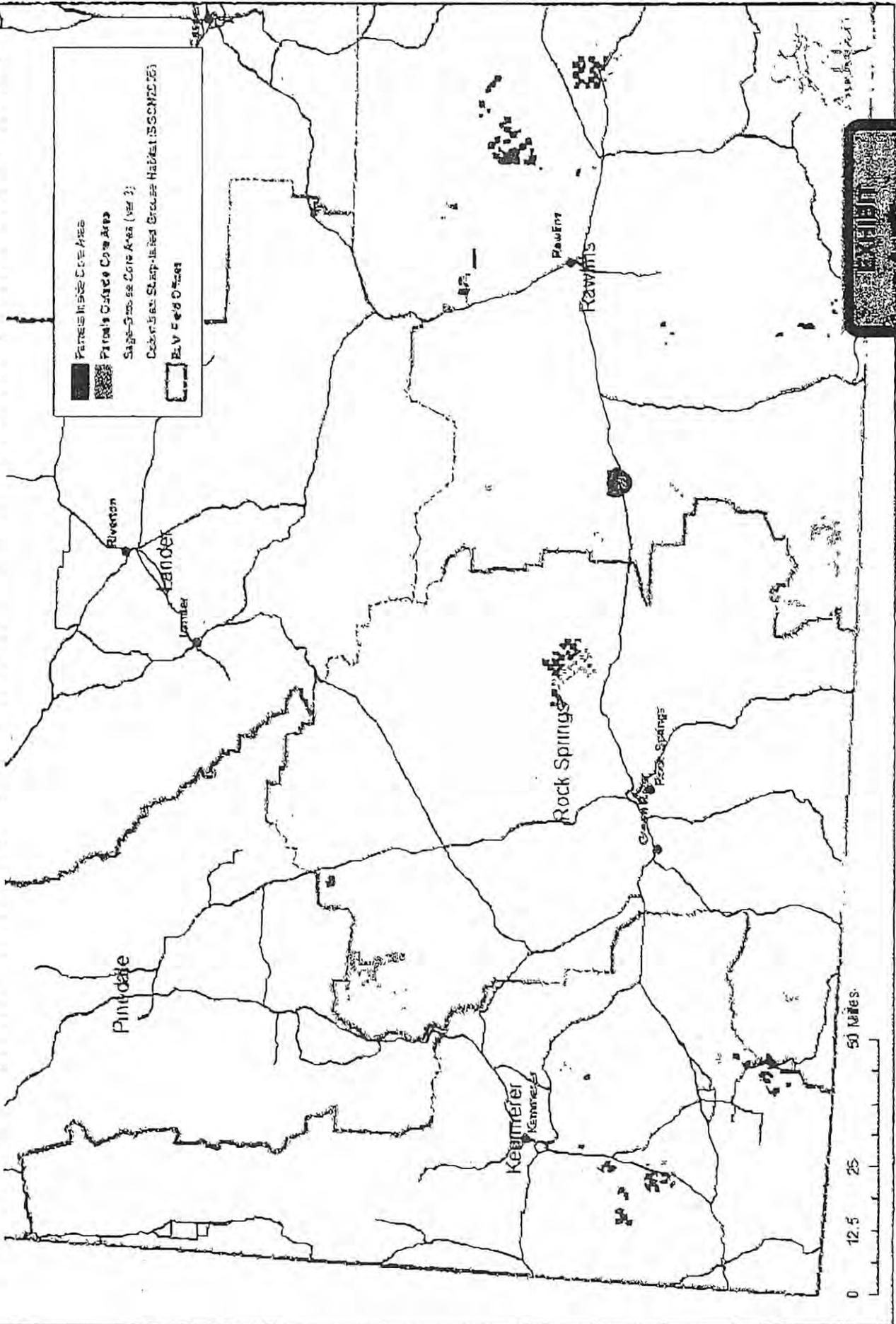
# WY Oil & Gas Lease Sale - November 2012 (Final) Parcels in Core Area that provides Connectivity to Colorado Populations (Rawlins Field Office)

 Parcels Inside Core Area (Parcels as Labeled)  
 Parcels Outside Core Area  
 Sage-Strunge Core Area (v. 3)



# WY Oil & Gas Lease Sale - November 2012 (Final)

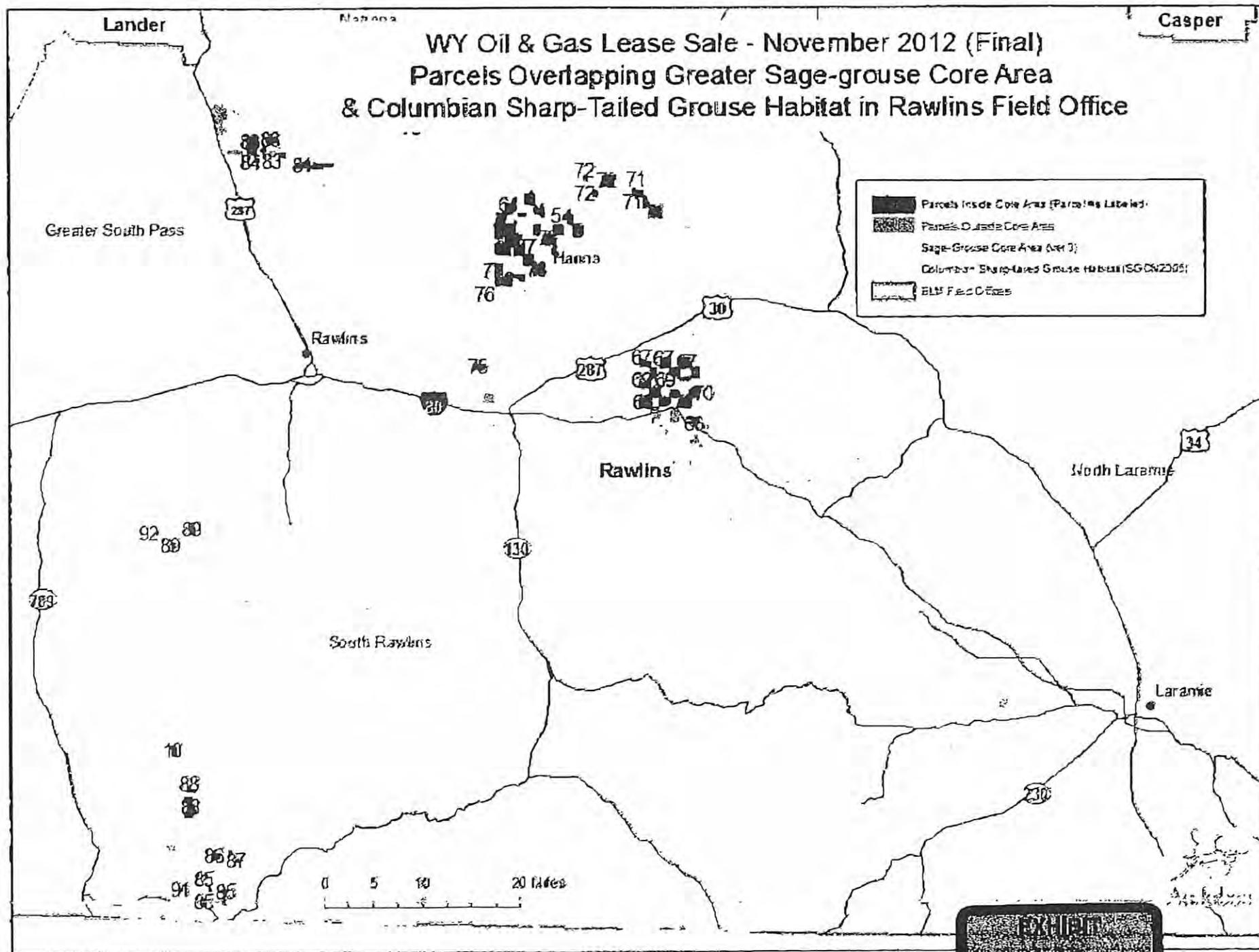
## Parcels Overlapping Greater Sage-grouse Core Area & Columbian Sharp-tailed Grouse Habitat



0005/011

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WY Oil & Gas Lease Sale - November 2012 (Final)  
 Parcels Overlapping Greater Sage-grouse Core Area  
 & Columbian Sharp-Tailed Grouse Habitat in Rawlins Field Office

	Parcels Inside Core Area (Parcels Labeled)
	Parcels Outside Core Area
	Sage-Grouse Core Area (see 3)
	Columbian Sharp-tailed Grouse Habitat (SGDN2005)
	BLM Field Offices

0 5 10 20 Miles



November 2012 - Final List of Parcels (for Formal Protest - deadline of Sept. 7, 2012)

Regional Breeding Density

PARCEL #	BLM Field Office	Core Area Name	25% Polygon	50% Polygon	Sharp-Tailed Habitat?
1	Rawlins	Hanna		Yes	
2	Rawlins	Hanna		Yes	
3	Rawlins	Hanna			
4	Rawlins	Hanna			
5	Rawlins	South Rawlins			Yes
10	Rawlins	South Rawlins			Yes
32	Rock Springs	Continental Divide	Yes	Yes	
34	Rock Springs	Continental Divide	Yes	Yes	
35	Rock Springs	Continental Divide	Yes	Yes	
36	Rock Springs	Continental Divide	Yes	Yes	
37	Rock Springs	Continental Divide			
39	Rock Springs	Continental Divide	Yes	Yes	
40	Rock Springs	Continental Divide	Yes	Yes	
42	Rock Springs	Continental Divide			
43	Rock Springs	Continental Divide			
45	Rock Springs	Greater South Pass		Yes	
57	Kemmerer	Uinta			
60	Kemmerer	Sage	Yes	Yes	
62	Rawlins	Hanna		Yes	
63	Rawlins	Hanna			
64	Rawlins	Hanna			
65	Rawlins	Hanna			
66	Rawlins	Hanna		Yes	
67	Rawlins	Hanna	Yes	Yes	Yes
68	Rawlins	Hanna		Yes	Yes
69	Rawlins	Hanna	Yes	Yes	Yes
70	Rawlins	Hanna		Yes	Yes
71	Rawlins	Hanna			
72	Rawlins	Hanna		Yes	
73	Rawlins	Hanna		Yes	
74	Rawlins	Hanna		Yes	
75	Rawlins	Hanna			
76	Rawlins	Hanna		Yes	
77	Rawlins	Hanna			
78	Rawlins	Hanna			
79	Rawlins	Hanna			
81	Rawlins	Hanna	Yes	Yes	
83	Rawlins	Hanna	Yes	Yes	
84	Rawlins	Hanna	Yes	Yes	
85	Rawlins	South Rawlins			Yes
86	Rawlins	South Rawlins			Yes

EXHIBIT

2A

87	Rawlins	South Rawlins			Yes
88	Rawlins	South Rawlins	Yes	Yes	Yes
89	Rawlins	South Rawlins			Yes
91	Rawlins	South Rawlins			Yes
92	Rawlins	South Rawlins	Yes	Yes	
94	Kemmerer & Rock Springs	Uinta			
95	Kemmerer & Rock Springs	Uinta		Yes	
95	Kemmerer	Uinta		Yes	
97	Kemmerer	Sage			
98	Kemmerer	Sage			
99	Kemmerer	Sage	Yes	Yes	
100	Kemmerer	Sage	Yes	Yes	
101	Kemmerer	Sage	Yes	Yes	
102	Kemmerer	Sage	Yes	Yes	
103	Kemmerer	Sage		Yes	
104	Kemmerer	Sage	Yes	Yes	
105	Kemmerer	Sage		Yes	

Parcels highlighted in red are in core area which provide important connectivity to Colorado populations



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 Fort Collins, CO 80524  
 Tel: 970.416.6931  
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September 5, 2012

**BLM Wyoming State Office – November 2012 Oil & Gas Lease Sale**

**Expert Comments of Alison Holloran  
 Director of Science – Rocky Mountain Region  
 Audubon Rockies**

I am an 11-year employee of Audubon Rockies. I oversee issues related to avian species in the Rocky Mountain region. Prior to working for Audubon, I received my Master's degree in Wildlife Management from the University of Wyoming's Cooperative Fish and Wildlife Research Unit studying the effects of oil and gas development on Greater Sage-grouse on the Pinedale Anticline. Since that time I have specialized in sagebrush steppe avian species management within my position with Audubon, with special attention to this ecosystem within Wyoming.

**Commitment to Science-Based Management – Reports**

Overall, Audubon strongly advises that the BLM adhere to their science-based commitment, echoed in the U.S. Fish and Wildlife Service's (USFWS) 12-month Findings, the National Technical Team's Report ("Report on National Greater Sage Grouse Conservation Measures", released December 2011), and the most recently released "Sage-Grouse Conservation Objectives Draft Report," to protect important sage-grouse habitat. Specifically in the latter document, the Sage-Grouse Conservation Objectives Team (made up of state and federal agency representatives) recommended "that impacts be avoided to the maximum extent possible ... to sustain the functional value of the PAC impacted" (page 32). PAC stands for "priority areas for conservation," representing areas identified by each state as essential for the long-term conservation of the sage-grouse (page 8). Furthermore, as the area in question is identified as having C4 populations, the Team states that "plans should have the objective of maintaining C4 populations" where they exist (page 32). In this area, energy development is recognized as one of the primary threats. The southern edge of the Wyoming Basin population in Colorado is the northwest Colorado population, determined by the COT to be at a C3 population – a population at greater risk than the Wyoming portion. This latter population is at risk of energy development, mining, and infrastructure (page 19). Despite this latter population being out of the jurisdiction of the WY BLM, decisions made that impact connected Wyoming sage-grouse populations may negatively influence the northwest Colorado populations. It has long been increasingly recognized by federal and state land managers that sage-grouse conservation is a regional issue and that conservation must be done so as to enhance management flexibility and opportunities for adaptive management.

Based on the plethora of scientific research documenting the negative impacts that oil and gas development has on Greater Sage-grouse and the extent of energy development in Wyoming,

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BLM WY should proceed cautiously and protect priority grouse habitat from energy development activities. Specifically, the November 2012 lease sale with the 58 parcels within the designated Greater Sage-grouse Core Area are unacceptable and should be withdrawn from the sale until important management decisions have been finalized via the BLM's timely National Planning Strategy.

#### Necessity to Maintain Connectivity to Northwestern Colorado Populations

A total of 7 parcels (WY-1211-008, WY-1211-010, WY-1211-085 through 088, and WY-1211-91) proposed in the November 2012 lease sale are located in a particular sensitive area southwest of Rawlins, Wyoming. The USFWS has already concluded that the greater sage-grouse was warranted for protection under the Endangered Species Act of 1973; primarily due to invasive species, infrastructure, energy development (mainly oil, gas, and coalbed natural gas [CBNG]), and wildfire. The parcels in question for lease are directly west of a proposed major wind (Sierra Madre and Chokecherry Wind Farms) and multiple proposed high-voltage transmission development projects. Due to the proximity of the development to the proposed lease parcels and the extremely high quality sagebrush habitats located within and around these parcels, Audubon firmly believes (based on the most current research) that further development of this landscape will negatively impact the grouse population in this area. Further, the grouse that exist in the parcels in question have demonstrated movement to part of the northwestern Colorado population, as demonstrated in Mr. Chris Kirol's masters research (Kirol, Christopher, P., Quantifying habitat importance for greater sage-grouse (*Centrocercus urophasianus*) population persistence in an energy development landscape, M.S., Department of Ecosystem Science and Management, May 2012.). Therefore this area serves as habitat for a much larger multi-state grouse population and should be thought of and managed as one population instead of two distinct populations (Wyoming vs. Colorado).

#### Value of Regional Breeding Densities – Further Reinforcing the Value of Wyoming's Core Areas

The development of Wyoming's Core Area strategy and the associated core area map in 2008 included Audubon Wyoming's active involvement. My former colleague, Kevin Doherty (*Sagebrush Ecologist*, now employed by the U.S. Fish and Wildlife Service) worked with partners and used Wyoming Game and Fish Department lek data to determine the original boundaries of the core area map, which were subsequently modified based on improved habitat data and a broad stakeholder group.

Doherty was also the lead in developing a larger tool, a BLM-funded project to map high breeding densities of greater sage-grouse for use in conservation planning - *The Breeding Bird Density Map*. ([http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning\\_and\\_Renewable\\_Resources/fish\\_wildlife\\_and/sage-grouse.Par.99075.File.dat/gmgr\\_rangewide%20breeding\\_density.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning_and_Renewable_Resources/fish_wildlife_and/sage-grouse.Par.99075.File.dat/gmgr_rangewide%20breeding_density.pdf)).

Again Doherty used lek data (only the most recent male counts on leks were used) and the resulting GIS databases delineated high breeding densities of sage-grouse for use by conservation planners. In Wyoming, the lek data that formed the basis for this analysis was exceptional, with 95.3% of all leks surveyed within the 2 year window. Greater Sage-grouse State wide breeding density areas represent spatial locations of 25%, 50%, 75%, and 100% of the known breeding population. A total of 19 parcels protested by Audubon were not only within Core Area but were also within the 25% polygons. 19 of the parcels protested by Audubon are within the 25% polygons in addition to Core Area. This more detailed information, which presents concentrations

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of breeding birds in gradients, indicates that not all Core Area is equal. Some portions, such as those found within 25% polygons, reflect the high-abundance populations centers (highest density of breeding sites) and thus greater conservation value. An *additional* 15 more parcels were located within the slightly expanded 50% polygons.

Given the high quality of the data used (especially in Wyoming) and the widespread scientific acknowledgement of the value of the Breeding Bird Density Map for conservation planning, a regional GIS database that delineates densities is an important complementary tool that should be used when examining proposed parcels within sage-grouse habitat, even those within Core Areas. The seven parcels being disputed by Audubon should be recognized for their unique conservation value and importance in managing Wyoming's sage-grouse populations.

Respectfully,



Alison Holloran  
Director of Science – Rocky Mountain Region  
Audubon Rockies  
[aholloran@audubon.org](mailto:aholloran@audubon.org)

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<sup>1</sup> Breeding bird (lek) data have been widely used by agencies to monitor sage-grouse population trends and are considered a reasonable Index to relative abundance.

UNITED STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF HEARINGS AND APPEALS  
BOARD OF LAND APPEALS

\_\_\_\_\_)  
National Audubon Society )  
& )  
Audubon Wyoming )  
Appellants, )  
v. )  
Larry Claypool )  
Deputy State Director )  
Minerals and Lands )  
Wyoming State Office )  
Bureau of Land Management )  
Respondent. )  
\_\_\_\_\_)

IBLA Docket No: \_\_\_\_\_  
Reference No. 3100 (921 Bargsten)  
May 2012 Protcsts

REQUEST FOR STAY

**I. Introduction**

Pursuant to 43 C.F.R. §§ 4.410, 4.411, and 4.13, Appellants National Audubon Society and Audubon Wyoming (Audubon) file this Request for Stay in support of Audubon’s appeal of the Bureau of Land Management’s decision to deny Audubon’s Protest of BLM’s decision to offer the following parcels for lease at the May 1, 2012 Competitive Oil and Gas Lease Sale held by the BLM Wyoming State Office:

**WY-1205-004, 005, 006, 007, 008, 009, 010, 011, 012, 014, 015, 020, 021, 024, 025, 026, 028, 030, 031, 035, 036, 043, 044, 048, 056, 059, 060, 061, 075, 095, 108, 109, 116, 117, 120, 122, 125, 126, 128, 133, 134 & 153**

These 42 parcels are referred to below as the “disputed parcels.” Audubon is entitled to the requested stay because BLM’s decision violated the National Environmental Policy Act, Federal



**UNITED STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF HEARINGS AND APPEALS  
BOARD OF LAND APPEALS**

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National Audubon Society )  
 & )  
 Audubon Wyoming )  
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 Appellants, )  
 )  
 v. )  
 )  
 Larry Claypool )  
 )  
 Deputy State Director )  
 Minerals and Lands )  
 Wyoming State Office )  
 Bureau of Land Management )  
 )  
 Respondent. )

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IBLA Docket No: 2012-209 \_\_\_\_\_  
Reference No. 3100 (921 Bargsten)  
May 2012 Protests

**AUDUBON'S REPLY**

**I. Introduction**

Appellants National Audubon Society and Audubon Wyoming (Audubon) file this Reply to the Oppositions to Audubon's Request for Stay filed by the Bureau of Land Management (BLM), QEP Energy Company (QEP) and the State of Wyoming (Wyoming). The responsive briefs fail to establish that BLM's NEPA analysis and decision are informed by important new scientific information post-dating existing Resource Management Plans and now-outdated lease stipulations.

At the heart of this case are: 1) BLM's goal of "[m]aintain[ing] and/or increase[ing] sage-grouse abundance and distribution by conserving, enhancing or restoring the sagebrush ecosystem upon which populations depend" (Exhibit 2D at 6); 2) the December 2011 BLM

