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WESTERN RESOURCE
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March 8, 2013

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

RE: Protest & Statement of Reasons
Greater Sage-grouse Core Area parcels and other essential habitat proposed for the BLM WSO May 7, 2013 Oil & Gas Lease Sale:
***Disputed Parcel Numbers* (n=12): WY-1305-01, 42, 43, 44, 50, 54, 55, 58, 59, 60, 61, 62 and *Parcels of Concern, Needing Further Review* (n=32): WY-1305-20, 22, 23, 24, 25, 26, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 49, 50, 52, 53, 54, 55, 56, 57 & 62**

Dear Mr. Simpson:

The Bureau of Land Management's May 7, 2013 oil and gas lease sale proposes to offer twelve parcels (the "Disputed Parcels") comprising thousands of acres of public land or mineral estate within identified greater sage-grouse Core Population Areas (or core areas) that should be removed from the lease sale; and 32 additional parcels in the vicinity of the South Wells Core Area that should be reconsidered to further conservation and recovery objectives.

1. Audubon's Interest

National Audubon Society and Audubon Rockies ("Audubon") are concerned that the sale and subsequent development of these protested parcels would further jeopardize the viability and recovery of the greater sage-grouse.

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 Rockies' mission "is to be a strong, unified voice for an ethic of conservation in Wyoming and Colorado, focusing on birds, other wildlife and their habitats, for the benefit of present and future generations."

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The vision of Audubon Rockies 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 Rockies (formerly Audubon Wyoming) remains a key participant in the Wyoming Sage Grouse Implementation Team, whose careful deliberations crafted the Wyoming Core Population Areas Strategy. Audubon is a leading advocate for BLM's current science-based planning efforts across the bird's range and Wyoming. Audubon Rockies 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). BLM and other stakeholders recognize that Audubon and its legal counsel at Western Resource Advocates continue to be committed 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

Audubon supports BLM's decision to defer certain Core Population Area parcels from the sale pursuant to binding policies and screens. Deferral should extend to all Core Area habitat. The twelve parcels within core areas are WY-1305-01, 42, 43, 44, 50, 54, 55, 58, 59, 60, 61, and 62. 32 parcels adjacent to the Salt Wells Core Area warrants further careful consideration by the BLM, prior to the lease sale: WY-1305-20, 22, 23, 24, 25, 26, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 49, 50, 52, 53, 54, 55, 56, 57 & 62.

Expert scientific comments supporting this protest are set forth in **Exhibit A, Expert Comments of Alison Holloran, Director of Science – Rocky Mountain Region, Audubon Rockies.** A. Holloran was involved in some of the first research which examined the effects of oil and gas development on sage-grouse in the Pinedale area. Her published research has been referenced by the U.S. Fish and Wildlife Service in their March 2010 Finding and in subsequent federal conservation planning documents. Her testimony contains detailed description of the area, including discussion on existing disturbances and anticipated impacts to the species should all 44 parcels be leased. Information from the recently Lander RMP FEIS and the DEIS for the nearby Continental Divide-Creston Natural Gas Infill Project are both referenced to support Audubon's position.

Deferring of the 12 parcels within Core Area should be analyzed under the *Grouse Conservation Alternative* proposed by Audubon.

Deferral will avoid undermining the effectiveness 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[.]"

Wyoming Game and Fish Department raised concerns about Parcel WY-1305-01, located in the Hanna Core Area. This parcel should be deferred.

> The Rawlins Field Office submitted an email request to WGFD; the reply recommended further review of Parcel 001, as lease development could potentially compromise the ability of the area to support wildlife populations at current levels, and could exceed the recommended 5% disturbance calculation for Greater Sage-Grouse analysis due to incomplete reclamation east of the lease site.
>
> EA at 79 (emphasis added).

The remaining 11 parcels within Core Area are located in the Salt Wells Core Area, southwest of Rawlins.

Leasing of the disputed 12 parcels 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.

The 32 parcels adjacent to the Salt Wells Core Area warrants further careful consideration by the BLM prior to the lease sales given the proximity to the aforementioned Core Area and the uniquely high levels of energy development nearby, all contributing to extreme cumulative impacts. Fragmented and degraded habitat conditions should be considered by the BLM, and the reduced ability of this habitat to sustain sage-grouse populations should these parcels be leased with current inadequate stipulations.

The concerns regarding the impacts of disturbance levels and fragmentation on sage-grouse habitat and populations should be applied to the 32 parcels adjacent to Salt Wells Core Area.

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 importance to the environmental and economic health of the eleven western states in the bird's range, and nowhere more so than Wyoming.

3. BLM leasing decisions must be informed by a conservative management approach designed to preclude listing by protecting core areas, pending completion of BLM's National Planning Strategy.

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).

Holloran's expert comments document the importance of the Salt Wells Core Area parcels at pages 1-3. 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. Holloran comments at 2.

It is well recognized that Wyoming is the stronghold for greater sage-grouse and the sagebrush landscape, on which the species completely depends. Deferring these core area lands is important to 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.

Invasive and nonnative species impacts would undercut efforts to recover sage-grouse and habitat; as would the significant reclamation challenges in these arid landscapes. Because leasing is the point of an irretrievable commitment of resources, BLM rightly decided to defer the majority of core area parcels, and should similarly defer the protested parcels until 2014 when re-consideration may be appropriate subject to current science and updated stipulations.

4. Core areas should be deferred from leasing until BLM takes a hard look at significant new 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 tiered 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 indicates that efforts to date, including the use of current timing and seasonal stipulations as proposed for protested core area parcels are inadequate.

The leasing of parcels within identified core habitat is inconsistent with the larger on-going BLM effort. All parcels within core areas should be deferred until the regional planning effort has been completed. If leasing within core continues, USFWS is significantly more likely to properly conclude that such actions establish the continued inadequacy of regulatory mechanisms, by reducing or eliminating management options for the largest landowner of sage-grouse habitat.

The parcels at issue in this sale are in addition to the significant numbers of core area parcels leased in 2012 and 2013 to date. At some point, given the extensive amount of energy development and habitat fragmentation throughout its range (especially in Wyoming), additional leasing of core will be the straw that breaks the camel's back regarding the Service's upcoming listing decision, and the recovery prospects of this high profile species.

BLM's own science demonstrates that impacts resulting from a leasing decision 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. The agency must act consistently with 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.

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. Strong interim conservation, including core area protection, is urgently needed.

a. BLM's cannot lease core area parcels without considering the National Technical Team Report.

No leasing of Core Population Area parcels should proceed without analyzing the new scientific findings and recommendations set forth in the "Report on National Greater Sage-Grouse Conservation Measures" produced by the BLM's Sage-grouse National Technical Team and dated December 21, 2011 (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.

It is well recognized that Wyoming is the strong-hold for greater sage-grouse and the sagebrush landscape, on which the species completely depends. Decisions on these parcels are critical for the recovery of the species. Extensive research, much of which was focused in Wyoming, has shown the negative impacts of oil and gas activity on sage-grouse populations. Much of this research is compiled, referenced and relied on by 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.

Because leasing is the point of an irretrievable commitment of resources, these issues must be addressed before offering the disputed core area parcels for sale.

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 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 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. Continuing

to lease within core areas before RMP amendments are finalized jeopardizes proactive recovery efforts and could 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.

5. NEPA requires consideration of a *Grouse Conservation Alternative.*

A reasonable *Grouse Conservation Alternative* would defer all the protested parcels. BLM should fully analyze this reasonable alternative.

Audubon's *Grouse Conservation Alternative* would significantly advance grouse conservation efforts. 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.

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).

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).

Holloran's expert comments, Exhibit A, summarize energy development projects in the vicinity of the Salt Wells Core Area:

> The Salt Wells Core Area, where 11 of the 12 parcels within Core Area are located, is surrounded by energy development activities.
>
> Within approximately 30 miles of these parcels, known existing/approved projects include:
> - Hiawatha Oil and Gas Project (2,200 wells/157,361 acres),
> - Desolation Flats Natural Gas Project (385 wells/542 acres),
> - Creston/Blue Gap and Continental Divide/Wamsutter II (4,440 existing wells),
> - South Baggs (93 wells/12,352 acres), and
> - Atlantic Rim Natural Gas (2,000 wells/270,080 acres).

In addition, Chokecherry Sierra Madre wind farm (1,000 turbines/215,000 acres) has been approved within 50-60 miles of these parcels. This would be North America's largest wind farm.

> Proposed projects within approximately 30 miles of these parcels include:
> - Quaking Aspen Mountain Wind Farm (38 turbines/5,157 acres),
> - Sweeney Ranch Wind Energy Facility (150 turbines/5,360 acres),
> - Monell Arch Oil and Gas project (105 new wells),
> - expansion of the Hiawatha Oil and Gas Project (4,208 new wells/157,335 acres),
> - Continental Divide-Creston Natural Gas (8,950 wells/1.1 million acres), and

- three proposed high voltage transmission lines (Gateway West, Gateway South, and TransWest Express).

The above information relays a long history of energy extraction activities in this area, as well as new additional pressures. However, this clashes with also high value wildlife resources values -- specifically Greater Sage-grouse populations.

Exhibit A at 2.

The expert comments (at 4) also raise serious concerns that 1) "in any landscape committed to oil and gas development is the inevitable consequence of the colonization by invasive, non-native species[;]" and 2) drought conditions are stressing the sage brush ecosystem habitat for the grouse, by "adversely impact[ing] many native shrub communities and several drought-related die-backs and die-offs are evident throughout the project area." These threats and conditions must be analyzed in BLM's cumulative impacts analysis.

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. The facts are clear that 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. Accordingly, it is incumbent on BLM to allow existing planning processes to analyze the potential impacts to grouse conservation of developing existing leases, before approving new leases in core area habitat.

The urgency to re-visit the cumulative impacts analysis in existing RMPs is supported by the September 28, 2011 federal court decision in Western Watersheds Project v. Salazar, Case No. 4:08-CV-516-BLW (D. Idaho 2011). WWP remanded the Pinedale, 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.

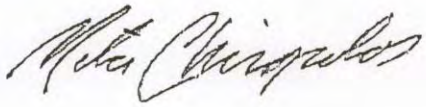
For the protested parcels, BLM has yet to update its cumulative impacts analysis. BLM must analyze how sage-grouse populations and habitat could be impacted by future development on existing leases in core habitat. Deferring the core area parcels is necessary in light of the potential for significant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

7. Conclusion & Request for Relief

BLM should analyze and adopt Audubon's *Grouse Conservation Alternative* that would defer all of the protested parcels at least until final RMP and planning decisions are made in 2014. Offering the protested parcels would violate NEPA and FLMPA, 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,



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Brian Rutledge, Alison Holloran & Daly Edmunds, Audubon

EXHIBIT A: A. Holloran Expert Comments

Audubon ROCKIES

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March 7, 2013

Expert Comments of Alison Holloran
Director of Science – Rocky Mountain Region, Audubon Rockies
Regarding: May 2013 BLM Wyoming State Office Oil & Gas Lease Sale

My Educational and Professional Back-ground:
As a 12-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. In this capacity, I routinely work with state /federal land managers and biologists, as well as sage-grouse experts within academia and consulting firms. I also assist Brian Rutledge, my immediate supervisor, in his role on the Sage-grouse Implementation Task Force.

Parcels within Core Area:
As set forth in our comment letter, Audubon Rockies is formally disputing the May 2013 sale of parcels within the sage-grouse core areas and we are greatly concerned about potential irreversible impacts to high profile wildlife species, most notably Greater Sage-grouse.

It is my professional opinion that these parcels should be withdrawn from the sale due to not only the dense grouse populations that are known to inhabit the area but also the extensive amount of existing and proposed energy development activities. Based on scientific studies documenting the negative effects of oil and gas development has on sage-grouse, if this area and these parcels are sold and developed, the grouse populations would potentially greatly diminished and suffer immense population losses due to disturbance, habitat fragmentation and direct loss.

Due to the overwhelming scientific evidence documented in many of the recent federal conservation planning documents[1], Audubon strongly advocates for complete avoidance or when avoidance is not possible, minimization of energy development in known sage-grouse occupied habitat – especially in Core Area. Researchers have documented a correlation between human footprint and sage-grouse persistence and performance in altered landscapes, providing important insights into impacts of anthropogenic changes in landscape (Aldridge 2000, Braun et al. 2002, Holloran 2005, Naugle et al. 2010). As stated in the 2012 Conservation Objectives Team Draft Report: "This approach (avoidance and/or minimization) will ensure that potentially unidentified key components to long-term persistence of sage-grouse are not lost, and that management flexibility and the ability to implement adaptive management principles will be retained as current information gaps are filled. Implementing an avoidance first strategy will minimize or potentially preclude

[1] U.S. Fish & Wildlife Service's (USFWS) March 2010 Finding, *"A Report on National Greater Sage-Grouse Conservation Measures"* produced by BLM's Sage-grouse National Technical Team (12/21/11), , *"Sage-Grouse Conservation Objectives Draft Report"* prepared by state and federal scientists/sage-grouse experts and released by USFWS (9/1/12)

continuing declines in the species and its habitats, as well as limit further reduction in management and restoration options."

The Salt Wells Core Area, where 11 of the 12 parcels within Core Area are located, is surrounded by energy development activities.

Within approximately 30 miles of these parcels, known existing/approved projects include:

- Hiawatha Oil and Gas Project (2,200 wells/157,361 acres),
- Desolation Flats Natural Gas Project (385 wells/542 acres),
- Creston/Blue Gap and Continental Divide/Wamsutter II (4,440 existing wells),
- South Baggs (93 wells/12,352 acres), and
- Atlantic Rim Natural Gas (2,000 wells/270,080 acres).

In addition, Chokecherry Sierra Madre wind farm (1,000 turbines/215,000 acres) has been approved within 50-60 miles of these parcels. This would be North America's largest wind farm.

Proposed projects within approximately 30 miles of these parcels include:

- Quaking Aspen Mountain Wind Farm (38 turbines/5,157 acres),
- Sweeney Ranch Wind Energy Facility (150 turbines/5,360 acres),
- Monell Arch Oil and Gas project (105 new wells),
- expansion of the Hiawatha Oil and Gas Project (4,208 new wells/157,335 acres),
- Continental Divide-Creston Natural Gas (8,950 wells/1.1 million acres), and
- three proposed high voltage transmission lines (Gateway West, Gateway South, and TransWest Express).

The above information relays a long history of energy extraction activities in this area, as well as new additional pressures. However, this clashes with also high value wildlife resources values – specifically Greater Sage-grouse populations. In the recently released Continental Divide-Creston Natural Gas Project (CD-C) DEIS, "One-hundred ninety-two (192) known leks are located within 11 miles of the CD-C project area; 105 are occupied, 13 are unoccupied, and 74 have undetermined status (see Map 3.9-2). Another 67 known sage-grouse leks are located within the CD-C project area, for a total of 259 leks within the CD-C project CIAA. One-hundred sixty-eight (168) of these leks are occupied. All 259 leks would potentially be affected by the CD-C project or RFFAs as indicated on Map 5.9-2. Sixty-three (63) would possibly be directly affected by the CD-C project, 44 by Atlantic Rim, 18 by transmission line corridors and another 7 by various oil and gas projects. Other areas within the 11-mile buffer and associated Core Population Areas would be affected by scattered energy developments and anthropogenic features on the landscape." DEIS at 5-30.

Due to these overwhelming factors; established scientific evidence of the effects of oil and gas development on Greater Sage-grouse, combined with the density of grouse inhabiting in the areas for sale as well as the established and proposed development that surrounds the Salt Wells Core Area, we conclude that if these parcels are sold and developed, it would have devastating effects on the grouse population in the state and therefore may trigger a listing by the USFWS. In my professional opinion, BLM actions moving should be thoughtful and cautionary. Strong protections such as avoidance of energy development activities within Core Areas become of extreme importance to meet the State and BLM's goal of maintaining sage-grouse populations on the landscape, especially where surrounding landscapes are already so obviously challenged.

Parcels in Non-Core Area (adjacent to Salt Wells Core Area):

As stated in the Fish and Wildlife 2010 12-Month Findings for Petitions to List the Greater Sage- Grouse (Centrocercus urophasianus) as Threatened or Endangered: "Several factors are contributing to the destruction, modification, or curtailment of the greater sage-grouse's habitat or range. Sagebrush habitats are becoming increasingly degraded and fragmented due to the impacts of multiple threats, including direct conversion,

urbanization, infrastructure such as roads and powerlines built in support of several activities, wildfire and the change in wildfire frequency, incursion of invasive plants, grazing, and nonrenewable and renewable energy development. Many of these threat factors are exacerbated by the effects of climate change, which may influence long-term habitat trends."

The scientific research is very clear that Greater Sage-grouse populations are negatively affected by energy development activities, even when mitigative measures are implemented (see FWS 2010 12 month finding: 75 FR 13910). And that "Impacts can result from direct habitat loss, fragmentation of important habitats by roads, pipelines, and powerlines, noise and direct human disturbance. The negative effects of energy development often add to the impacts from other human development and activities and result in sage-grouse population declines." (FWS grouse 12 month finding: 75 FR 13910, p. 34).

Other federal reports, including the Conservation Assessment of Greater Sage-grouse and Sagebrush Habitats (J. W. Connelly, et. al 2004) and the Sage-Grouse Conservation Objectives Draft Report (2012), have documented that loss and fragmentation of sagebrush habitats negatively affect Greater sage-grouse populations. In regards to energy development activities, roads, well pads powerlines, and associated infrastructure all increase the fragmentation/loss effects.

Therefore, I am also interested in the parcels that surround the Salt Wells Core Area, specifically those that do not overlap existing or proposed fields of development. As noted in the recently released Lander Proposed RMP and Final EIS, "Development in non-Core Area that pushes activities near the edge of the Core Area is likely to adversely impact the functionality of the adjacent Core Area habitat. Surface disturbance and human activity near this edge could cause degradation of adjacent Core Area habitat and result in Core Area boundaries to erode over time." FEIS at 1284. These 32 parcels of interest are located adjacent to the propose infill project, Continental Divide-Creston Natural Gas Project, which would become North America's largest natural gas field. The DEIS notes, "Sage-grouse populations in non-core areas may experience localized substantial loss of habitat, biological integrity or function, decreased viability or increased mortality or substantial disruption of life-history requirements." DEIS at 4-102.

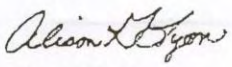
These 32 parcels must be carefully examined by the BLM prior to the lease sale to determine if all are appropriate for development, given the proximity to the Salt Wells Core Area and the extensive surrounding development pressures. Should some of these parcels be, adequate protective stipulations (scientifically defensible) must be assigned to them. These must be developed responsibly to minimize cumulative impacts and degrade the value of the South Wells Core Area.

Also of great concern in any landscape committed to oil and gas development is the inevitable consequence of the colonization by invasive, non-native species. In the sagebrush-steppe community, in addition to the slow regeneration of sagebrush, the biggest threat is the invasion of cheatgrass (Bromus tectorum). Even assuming re-vegetation was successful, there is an increased risk of predation on ground nests by newly accommodated synanthropic predators. Raven, coyotes and other opportunistic predators will benefit from an open corridor, putting sagebrush obligate species at further risk. The introduction of aggressive fauna and flora invasive species are often linked to human disturbances, such as new roads and construction of facilities associated with these proposed parcel sales and later development. Further support and specific location descriptions are found in the adjacent Continental Divide-Creston Natural Gas Project DEIS, "Invasive plant species pose a threat to the long-term productivity, diversity, and aesthetic values of lands within the RFO. Recent extended drought conditions in Wyoming, in conjunction with unprecedented energy development and other construction activities in western Wyoming, have favored the establishment and spread of invasive weed species ... thus creating an ideal environment for invasion and establishment of aggressive and invasive weedy species." DEIS at 3-83.

Finally, the habitat associated with the parcels of interest has been further challenged by recent drought conditions. The CDC DEIS again notes, "Extended drought conditions throughout southwestern and south-central Wyoming have adversely impacted many native shrub communities and several drought-related die-backs and die-offs are evident throughout the project area. The greatest mortality appears to occur in Artemisia species and subspecies that are more adapted to mesic sites, e.g., basin big sagebrush (Artemisia tridentata ssp. tridentata) (ATT) and mountain big sagebrush (A.t. spp. vaseyana var. vaseyana and var. pauciflora)." DEIS at 3-67.

With already fragmented habitat, reduced quality habitat conditions (associated with drought and invasive species), and proposed dramatic increases in energy development activities for the areas in question, I believe the parcels within the Salt Wells Core Area should not be sold at the May 2013 lease sale. Furthermore, the BLM should carefully examine the impacts to Greater Sage-grouse populations if the parcels surrounding Salt Wells Core Area are leased at this time.

Respectfully,



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