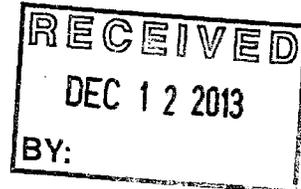




262 Lincoln Street
 Lander, WY 82520-2848
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FAX COVER SHEET

DATE: 12/12/13	FROM: JULIA STUBBS
TO: JULIE WEAVER, BRANCH OF FLUID MINERALS ADJUDICATION	
COMPANY: BLM WYOMING	
FAX NUMBER: 307 775 6203	
Number of pages including cover: 4	

MESSAGE:

RE: PROCT OF FEBRUARY 2014 LEASE SALE

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Julie Weaver
Chief, Branch of Fluid Minerals Adjudication
Bureau of Land Management
Wyoming State Office
5353 Yellowstone Road
Cheyenne, WY 82009

December 12, 2103

Dear Ms. Weaver,

In accordance with 43 CFR 3120.1-3, the Wyoming Outdoor Council and Wyoming Wilderness Association protest the proposed sale of an oil and gas lease sale parcel included in the February 11, 2014 Competitive Oil and Gas Lease Sale Notice.

We object to the proposed sale of parcel WY 1402-118.

Both the Wyoming Outdoor Council and the Wyoming Wilderness Association offered comments on the Environmental Assessment for this February 2014 lease sale—those comments are dated August 28, 2013 and are hereby enjoined to this protest by this reference.

PROTESTING PARTIES and STATEMENT OF INTEREST

The **Wyoming Outdoor Council (WOC)** is a non-profit conservation organization with over 1,500 members in Wyoming. WOC is dedicated to the protection and enhancement of Wyoming's environment, communities, and quality of life. We have members that live in the Worland Field Office area where the protested parcel is located. WOC members utilize land and water resources within and near these areas for hiking, fishing, camping, recreational, and aesthetic purposes. We have members who recreate on and near to this parcel of concern, and who do so because of the wilderness qualities it offers—solitude, unparalleled beauty, wildness, enjoyment of the unique viewsheds and geological wonders, and wildlife watching opportunities. WOC is actively involved in BLM oil and gas activities in this region and participates in all aspects of BLM oil and gas projects by involving its staff and members in submitting comments and attending public meetings. Among other things WOC has been deeply involved in oil and gas development issues related to the revision of the BLM Bighorn Basin Resource Management Plan. WOC has a 40 year commitment to environmentally sound oil and gas leasing and development throughout Wyoming. Consequently, the Wyoming Outdoor Council and its members would be adversely affected by the sale of the lease parcel that is protested, and it has an interest in this lease sale.

The **Wyoming Wilderness Association (WWA)** works to protect Wyoming's public wild lands to ensure a future of wild places for people and wildlife. As a homegrown, statewide wilderness organization with over 700 members, WWA is a voice for our treasured places. WWA has been deeply involved in a number of BLM oil and gas leasing decisions, submitting comments on and in some cases protesting parcels in various previous lease sales. WWA has also submitted new wilderness inventory data to the

Working to protect Wyoming's public lands and wildlife since 1967

Wyoming BLM in 2012. Consequently, the WWA and its members would be adversely affected by the sale of the lease parcel at issue here, and it has an interest in this lease sale.

STANDING

In its decision on the Wyoming Outdoor Council protest of the November 2013 oil and gas lease sale, BLM raised the issue of standing and asserted that we might not meet standing requirements for an appeal to the Interior Board of Land Appeals (IBLA). This is a completely off-point concern and issue. In the November lease sale protest as well as in this February lease sale protest we are not appealing a lease sale decision to the IBLA, we are protesting the sale of lease parcels to BLM. Consequently there is no need for us here to demonstrate that we meet the standing requirements for an appeal to the IBLA—demonstration that the appellant is a “party to a case” and that it is “adversely affected.” The only requirement here is that we meet the requirements for a protest to the BLM. As BLM recognized in its November protest decision, its regulations governing protests “do not describe any limitations as to who may protest inclusion of lands in a sale notice.” 43 C.F.R. § 3120.1-3. The only limitation is the requirement in BLM’s lease sale notices that a protest “must state the interest of the protesting party in the matter.” The above statements more than meet that requirement.

While it may be necessary to submit declarations from members demonstrating they have a direct interest and connection to the parcels under appeal to the IBLA, there is no similar declaration requirement for lease protests to the BLM. We only need to show we have an interest in the lease sale parcels, which we have done. In the November lease protest decision the BLM cited the IBLA case of *Biodiversity Conservation Alliance et al.* to support its concerns about our ability to appeal the lease sale decision to the IBLA. But actually this case supports our view that we have met the protest requirements. In its judgement of that case, the IBLA stated, “[W]hile an individual or group has the right under 43 C.F.R. 4.450-2 to protest all parcels offered at a lease sale, dismissal of such a protest does not guarantee the right to appeal the dismissal decision as to all parcels.” *Biodiversity Conservation Alliance* 183 IBLA 97, 108 (Jan. 8, 2013) (quoting *Wyoming Outdoor Council* 153 IBLA 379, 384 (2000)) (emphasis added). Under 43 C.F.R. 4.450-2, action on a protest is to be “taken as is deemed to be appropriate in the circumstances.” BLM has defined what is appropriate relative to lease protests—the protesting party must show they have an interest in the matter but nothing more. Consequently, there is no doubt the parties to this protest have an interest in this lease sale, and therefore this protest is appropriate and valid.

PARCEL OF CONCERN

We protest the sale of parcel WY 1402-118 (WY 1402-153 in the Environmental Assessment); this parcel is within the boundaries for the Honeycombs Citizens’ Wilderness Proposal. This parcel is implicated by new wilderness quality data presented to the BLM by Wyoming Wilderness Association in a 2012 inventory. Until the data from this inventory is fully analyzed by BLM, parcels implicated by this new information, such as WY 1402-118, should not be offered for sale in an oil and gas lease sale. As such, WY 1402-118 must be pulled from the Competitive Lease Sale Notice for the February 11, 2014 oil and gas lease sale. Before selling a parcel, the BLM must adequately analyze the environmental impacts of leasing this parcel as required by NEPA; this analysis will not be complete without full consideration of the new information in the WWA wilderness inventory. Full analysis has not been completed for WY 1402-118 and thus it may not be sold in the February lease sale.

In the Wyoming Wilderness Association and Wyoming Outdoor Council comments, dated August 28, 2013, on the February 11, 2014 oil and gas lease sale environmental assessment, WWA noted that this organization had presented new wilderness characteristics data for the Honeycombs Citizen’s Wilderness Proposal to the BLM in 2012. This new inventory data results in circumstances that require the BLM to update its wilderness characteristics inventory. BLM Manual 6310 provides guidance regarding

circumstances that indicate when an existing wilderness characteristics inventory should be updated. The circumstances outlined in this manual that are relevant to this protest follow.

- (1) The public or the BLM identifies wilderness characteristics as an issue during the National Environmental Policy Act (NEPA) process. BLM Manual 6310 at 2.
- (2) The BLM has new information concerning resource conditions, including wilderness characteristics information submitted by the public that meets the BLM's minimum standard described in the Wilderness Characteristics Inventory Process section of this policy. BLM Manual 6310 at 2.
- (3) A project that may impact wilderness characteristics is undergoing NEPA analysis. BLM Manual 6310 at 2.

The circumstances surrounding WWA's submission of the updated 2012 wilderness characteristics inventory and this lease sale are in line with the guidance outlined above regarding when the BLM should update their wilderness characteristics inventory. In our comments submitted on the EA, we identified wilderness characteristics as an issue for parcel WY 1402-118 (in the EA, WY 1402-153), which fulfills the first circumstance outlined above. WWA's 2012 wilderness characteristics inventory meets the requirements of the minimum standard to be considered as new information, which fulfills the second circumstance outlined above. Finally, this sale of this parcel—and subsequent development—will impact wilderness characteristics, which fulfills the third circumstance outlined above. Given the fulfillment of three circumstances, it is clear that the BLM should pursue the next steps following a recognized need to revisit their inventory.

BLM Manual 6310 also provides guidance on the next steps after it is determined that an update of their inventory is needed. The relevant excerpt from the manual follows.

“When new information regarding wilderness characteristics meets the minimum standard for further review, as soon as practicable, the BLM shall evaluate the information regarding the validity of proposed boundaries of the area(s), the existence of wilderness inventory roads and other boundary features, the size of the area(s), and the presence or absence of wilderness characteristics. This evaluation may be based on relevant information available in the office (prior BLM inventories, interdisciplinary team knowledge, aerial photographs, field observations, maps, etc.). Field checking may also be needed. The BLM will compare existing data with the submitted information, determine if the conclusion reached in previous BLM inventories remains valid, determine whether the area qualifies as lands with wilderness characteristics, and document its findings. The BLM will document the rationale for the findings, make the findings available to the public, and retain a record of the evaluation and the findings as evidence of the BLM's consideration. BLM Manual 6310 at 3-4.

Despite the fact that WWA's inventory submissions meet the minimum standard for further review, the BLM has yet to evaluate the new information, document their findings, make the findings available to the public, and retain a record of the evaluation and the findings as evidence of the BLM's consideration. Without these steps, the BLM does not have the relevant information to adequately analyze the impacts of the sale of parcel WY 1402-118. NEPA requires an adequate analysis and NEPA documents must be “high quality”. Additionally, “accurate scientific analysis” is also necessary for successfully carrying out NEPA procedures. (40 C.F.R. 1500.1(b)). An analysis that is not based on the most current information possible does not demonstrate “high quality” information or “accurate scientific analysis.” If the BLM is basing analysis on older, outdated, information, this does not constitute “high quality.” This is especially relevant when the BLM has had adequate indication, provided by WWA's 2012 inventory submission, that new information exists and that resource conditions may have changed. Additionally, BLM Manual

6310 recognizes that conditions related to wilderness characteristics can change over time. BLM Manual 6310 at 2.

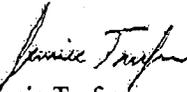
In order to meet the procedural requirements of NEPA and BLM Manual 6310, the BLM should not sell the lease parcel WY 1402-118 until the BLM has evaluated the new information, documented their findings, made the findings available to the public, and retained a record of the evaluation and the findings as evidence of the BLM's consideration. As this necessary and mandated analysis has yet to occur—even a year after submission of new wilderness inventory—the BLM cannot offer for sale WY 1402-118 and it must be removed from the February 11, 2014 oil and gas lease sale.

We appreciate the BLM's consideration of this protest. BLM fundamentally operates under "the policy of the United States" as declared by Congress that the public lands will be "managed in manner that will protect" a number of resources, including scientific, scenic, historical, ecological, environmental, air, water, and archeological values as well as pursuing management that "will preserve and protect certain public lands in their natural condition", while providing food and habitat for fish and wildlife and providing for outdoor recreation. 43 U.S.C. § 1701(a)(8). Given this overarching policy direction, the BLM should defer the parcel of concern we have identified in this protest.

Best regards,



Julia Stuble
Land Conservation Coordinator
Wyoming Outdoor Council



Jennie Trefren
BLM Outreach Coordinator
Wyoming Wilderness Association