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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SOUTHERN UTAH WILDERNESS ALLIANCE and)	
NATURAL RESOURCES DEFENSE COUNCIL,)	
)	
Plaintiffs,)	Case No. 2:08cv00064 (DAK)
)	Honorable Dale A. Kimball
)	
vs.)	
)	
BUREAU OF LAND MANAGEMENT, THE)	
DEPARTMENT OF THE INTERIOR, and DIRK)	
KEMPTHORNE, in his official capacity as Secretary of)	
the Department of the Interior,)	
)	
Defendants.)	
)	
)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This suit challenges the decisions by the Bureau of Land Management, the Department of the Interior, and Secretary of the Department of the Interior Dirk Kempthorne (collectively referred to as “BLM”) authorizing the sale of 60 oil and gas leases that allow surface occupancy on tens of thousands of acres of BLM managed lands in Utah at three lease sales held between February 2004 and May 2005. Each of these three sales presents the identical legal and factual issues recently addressed by the court in *Southern Utah Wilderness Alliance v. Norton (SUWA)*, 457 F. Supp. 2d 1253 (D. Utah 2006) – whether BLM violated the National Environmental Policy

Act (NEPA) when it sold oil and gas leases on lands recognized by the agency as having or likely possessing wilderness character and when it sold oil and gas leases without adequate pre-leasing analysis.

2. The issuance of oil and gas leases that allow surface occupancy – *i.e.* leases that lack no surface occupancy stipulations (NSO stipulations) – constitutes the point at which the BLM engages in an irreversible and irretrievable commitment of resources. That is, once such leases have been issued, the BLM can no longer entirely preclude surface disturbance on the leasehold – even if necessary to protect publicly-owned resources. In its hurry to lease public lands, the BLM has ignored important environmental rules and regulations requiring it to “look before it leaps,” and to fully evaluate, analyze, and disclose the impacts of oil and gas leasing, development, and related activities before leases are offered, sold, and issued. In Utah, the BLM has refused to follow this legally required precautionary approach and issued 60 federal oil and gas leases at its February 2004, June 2004, and May 2005 oil and gas lease sales without adequate environmental analysis and without appropriate protective lease stipulations.

3. The leases in question cover some of the wildest and most spectacularly beautiful public lands in the United States; lands that are internationally renowned as being among America’s unique treasures. The BLM itself between 1996-2006 compiled new information and concluded that many of the lands at issue in this case contain or are likely to contain wilderness characteristics – that is, that they are in natural condition with little or no evidence of the presence of man and offer outstanding opportunities for solitude and for primitive and unconfined recreation. The BLM has never considered the effects of oil and gas development on the wilderness values of these lands. It is this and other new information that BLM must consider – but has not done so – before leasing these lands.

JURISDICTION AND VENUE

4. This court has jurisdiction over this action pursuant to the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.* and its implementing regulations, the Declaratory Judgment Act, 28 U.S.C. § 2201, the Administrative Procedure Act (APA), 5 U.S.C. §§551 *et seq.*, and 28 U.S.C. § 1331 (federal question).

5. Injunctive relief is authorized by Rule 65 of the Federal Rules of Civil Procedure.

6. Venue is proper in the Central Division of the United States District Court for the District of Utah pursuant to 28 U.S.C. § 1391(e) because the statutory violations alleged herein all occurred within the State of Utah.

PARTIES

7. Plaintiff SOUTHERN UTAH WILDERNESS ALLIANCE (SUWA) is a non-profit environmental membership organization dedicated to the sensible management of public lands within the State of Utah, to the preservation and protection of plant and animal species, and to the preservation of Utah's remaining wild lands. SUWA has offices in Utah and in Washington, D.C. SUWA has members in all fifty states and several foreign countries. SUWA members use and enjoy public lands in and throughout Utah for a variety of purposes, including scientific study, recreation, hunting, aesthetic appreciation, and financial livelihood. SUWA members frequently visit and recreate (*e.g.*, hunt, camp, bird, sightsee, and enjoy solitude) throughout all the lands comprising the oil and gas lease parcels that are the subject of this complaint, including Coal Canyon, Floy Canyon, Bull Canyon, White River, Daniels Canyon, Cripple Cowboy, Flume Canyon, Diamond Mountain, Bourdette Draw, Sweetwater Canyon, Bitter Creek, Rat Hole Ridge, Flat Tops, Sweetwater Reef, Hideout Canyon, Lost Spring Wash, and Dome Plateau. SUWA members have a substantial interest in this matter – they have suffered real and immediate harm by the BLM's decision to offer, sell, and issue leases within these areas, as alleged below.

Because oil and gas leasing is the point at which an irreversible and irretrievable commitment of resources is made, the BLM's failure to comply with applicable federal law and regulations prior to issuing the challenged leases will cause some level of surface disturbance without an adequate environmental analysis or adequate lease stipulations. This inevitable surface disturbance harms the interest of SUWA and its members in the pristine and untrammled nature of the leased lands. SUWA members also have a substantial interest in seeing that the BLM complies with the terms and requirements of NEPA. SUWA brings this action on its own behalf and on behalf of its adversely affected members.

8. Plaintiff NATURAL RESOURCES DEFENSE COUNCIL (NRDC) is a non-profit environmental membership organization with more than 400,000 members throughout the United States. NRDC members use and enjoy public lands in and throughout Utah, including the specific lands at issue, for a variety of purposes, including: recreation, solitude, scientific study, and aesthetic appreciation. NRDC has had a longstanding and active interest in the protection of public lands in Utah. With its nationwide membership and a staff of lawyers, scientists, and other environmental specialists, NRDC plays a leading role in a diverse range of land and wildlife management and resource development issues. Over the years, NRDC has participated in a number of court cases involving resource development issues, including NEPA compliance, throughout the American West and including Utah. NRDC brings this action on its own behalf and on behalf of its members.

9. Defendant BUREAU OF LAND MANAGEMENT (BLM) is the agency within the U.S. Department of the Interior directly responsible for carrying out the Department's obligations under statutes and regulations governing oil and gas exploration, leasing, and development, and for complying with NEPA. The BLM manages approximately 23 million acres in Utah.

10. Defendant UNITED STATES DEPARTMENT OF THE INTERIOR is the federal agency responsible for managing just under 500 million acres of federal public lands for a variety of competing resources, including oil and gas development, as well as for the protection of the natural and human environment. The Department of the Interior is required to comply with NEPA and to evaluate, analyze, and disclose the impacts of federal undertakings to the public.

11. Defendant DIRK KEMPTHORNE is sued in his official capacity as acting Secretary of the Department of the Interior. In that capacity he is responsible for ensuring that the Department and the agencies within the Department, including the Bureau of Land Management, comply with all applicable laws and regulations, including NEPA.

FACTS GIVING RISE TO PLAINTIFFS' CAUSES OF ACTION

12. Between February 2004 and May 2005, the BLM's Utah state office held several quarterly competitive oil and gas lease sales. Among these, sales were held on February 18, 2004; June 25, 2004; and, May 17, 2005. At the time that they were held, several of these lease sales were touted by BLM as the "largest in state history" either in terms of acres offered for sale or gross revenue.

13. At Utah BLM's February 2004, June 2004, and May 2005 lease sales the agency offered and sold lease parcels located on lands that the BLM itself determined between 1996-1999 to have wilderness character, as defined by the Wilderness Act. These areas are known as wilderness inventory areas or "WIAs."

14. At Utah BLM's February 2004, June 2004, and May 2005 lease sales the agency offered and sold lease parcels located on lands determined by BLM between 2001-2006 to have a reasonable probability of wilderness character (referred to as an "RPD" – reasonable probability determination).

15. At Utah BLM's June 2004 and May 2005 lease sales the agency offered and sold lease parcels located in whole or in part on lands pursuant to management framework plans (MFPs) and

pre-Federal Land Policy and Management Act (FLPMA) NEPA analyses known as environmental analysis reports (EARs).

16. BLM has received applications for permit to drill (APDs) for some of the 80 leases that are at issue in this case.

17. Based on information and belief, BLM has not approved any APDs on leases that are at issue in this case.

February 2004 Lease Sale

18. In the fall of 2003, the BLM's Utah state office published a preliminary sale list for the quarterly competitive oil and gas lease sale to be held on February 18, 2004. Utah BLM field offices prepared and completed determinations of NEPA adequacy (DNAs) in the fall and early winter of 2003. On January 27, 2004 the BLM notified the public that the agency intended to offer 64 parcels at its February 18, 2004 oil and gas competitive lease sale. BLM issued a finding of no significant impact regarding the February 18, 2004 sale.

19. Fourteen of the 64 lease parcels sold at the February 2004 lease sale are located in whole or in part on lands that the BLM itself determined between 1996-1999 to have wilderness character, as defined by the Wilderness Act. These lands are located in the Floy Canyon WIA (UT 0204-037), Daniels Canyon WIA (UT 0204-092, UT 0204-093, UT 0204-118), Bull Canyon WIA (UT 0204-119, UT 0204-121, UT 0204-122, UT 0204-123, UT 0204-125), and Cripple Cowboy WIA (UT 0204-111, UT 0204-127, UT 0204-128, UT 0204-129, and UT 0204-130).

20. Twenty of the 64 parcels sold at the February 2004 lease are located in whole or in part on lands that the BLM itself determined between 2001-2003 have a reasonable probability of wilderness character. These lands are located in the Diamond Mountain RPD (UT 0204-079, UT 0204-081, UT 0204-082, UT 0204-083), Bourdette Draw RPD (UT 0204-093, UT 0204-095, UT 0204-100, UT 0204-101, UT 0204-118, UT 0204-119, UT 0204-120, UT 0204-121, UT 0204-

124), White River RPD (UT 0204-107, UT 0204-108, UT 0204-109, UT 0204-110), Sweetwater Canyon RPD (UT 0204-112), Bitter Creek RPD (UT 0204-127), and Rat Hole Ridge (UT 0204-129).

21. Neither the DNAs prepared by BLM for the February 18, 2004 oil and gas lease sale, nor the environmental analyses they allege to tier to, provide a site-specific analysis of the impacts of oil and gas leasing and development. The site-specific impacts of oil and gas development can be significant, particularly in roadless areas and/or areas substantially unaffected by human activity. Construction and operation of wells, towers, pumps, pipelines, roads, and waste pits can destroy wilderness qualities and scenic values, degrade air quality as well as habitat for plants and animals, and negatively affect the quantity and quality of water resources. Cultural and historic properties can be destroyed.

22. In addition, neither the BLM land use plans that address the lands to be leased – the 1985 Grand Resource Management Plan (RMP), the 1984 Book Cliffs RMP, the 1991 Diamond Mountain RMP – nor their accompanying environmental impact statements and subsequent oil and gas cumulative impacts environmental assessments analyze the site specific impacts of oil and gas leasing and development, or the impacts of related activities. In particular, these documents contain no analysis of any impacts of oil and gas leasing and development and related activities on the wilderness characteristics of the lands the agency decided to lease on February 18, 2004 because, at the time the documents were prepared, the BLM did not know that the lands possessed wilderness characteristics.

23. On February 3, 2004, Southern Utah Wilderness Alliance and NRDC (collectively “SUWA”) protested the inclusion of 37 parcels in the February 18, 2004 lease sale without NSO stipulations.

24. Of those 37 protested parcels, the 28 parcels identified *supra* in paragraphs 19 and 20 were sold competitively on February 18, 2004. Each of these parcels is located in areas that have been proposed for wilderness designation in America's Redrock Wilderness Act (H.R. 1919/S. 1170).

25. The BLM also received a protest from the Outdoor Industry Association (OIA), asking the BLM to defer leasing many of these same 28 parcels. The OIA protest stressed that the acknowledged wild and roadless character of these parcels was directly at risk from BLM's decision to sell these leases without first fully considering and analyzing the impacts of leasing on their wilderness qualities.

26. Oil and gas development and associated activities in parcels UT 0204-037, UT 0204-079, UT 0204-081, UT 0204-082, UT 0204-083, UT 0204-092, UT 0204-093, UT 0204-095, UT 0204-100, UT 0204-101, UT 0204-107, UT 0204-108, UT 0204-109, UT 0204-110, UT 0204-111, UT 0204-112, UT 0204-118, UT 0204-119, UT 0204-120, UT 0204-121, UT 0204-122, UT 0204-123, UT 0204-124, UT 0204-125, UT 0204-127, UT 0204-128, UT 0204-129, and UT 0204-130 will significantly affect the wilderness and other resources of the leased parcels. These activities include the construction and maintenance of access roads, wells, drill pads, pipelines, noisy compressor stations that run 24 hours a-day, and waste pits. There will be constant traffic on the roads to maintain these facilities, as well as noise and destruction of the existing naturalness of these lands.

27. SUWA alleged in its Protest of the February 18, 2004 lease sale that the BLM's decision to lease these 28 parcels violated NEPA and other federal laws and their implementing regulations.

28. None of the 28 parcels that SUWA protested, and that BLM sold competitively, were issued with unconditional NSO stipulations that covered all the leased surface lands.

29. BLM denied SUWA's protest in its entirety on September 30, 2005.

30. BLM completed the leasing transaction and issued the 28 leases at issue from the February 2004 lease sale on or about October 1, 2005.

June 2004 Lease Sale

31. In the winter of 2004, the BLM's Utah state office published a preliminary sale list for the quarterly competitive oil and gas lease sale to be held on June 25, 2004. Utah BLM field offices prepared and completed DNAs in the winter and early spring of 2004. On April 27, 2004 the BLM notified the public that the agency intended to offer 164 parcels at its June 25, 2004 oil and gas competitive lease sale. BLM issued a finding of no significant impact regarding the June 25, 2004 sale.

32. Thirteen of the 136 parcels sold at the June 2004 lease sale are located in whole or in part on lands that the BLM itself determined between 2001-2003 have a reasonable probability of wilderness character. These lands are located in the Flat Tops RPD (UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168, UT 0604-171, UT 0604-173, UT 0604-176), Sweetwater Reef RPD (UT 0604-169, UT 0604-170), and Mexico Point RPD (UT 0604-237).

33. Fifteen of the 136 parcels sold at the June 2004 lease sale are located in whole or in part on lands that the BLM currently manages pursuant to pre-FLPMA EARs and MFPs, and include the following: UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168, UT 0604-169, UT 0604-170, UT 0604-171, UT 0604-172, UT 0604-173, UT 0604-174, UT 0604-175, and UT 0604-176.

34. Neither the DNAs prepared by BLM for the June 25, 2004 oil and gas lease sale, nor the environmental analyses they allege to tier to, provide a site-specific analysis of the impacts of oil and gas leasing and development. The site-specific impacts of oil and gas development can be

significant, particularly in roadless areas and/or areas substantially unaffected by human activity. Construction and operation of wells, towers, pumps, pipelines, roads, and waste pits can destroy wilderness qualities and scenic values, degrade air quality as well as habitat for plants and animals, and negatively affect the quantity and quality of water resources. Cultural and historic properties can be destroyed.

35. In addition, neither the BLM land use plans that address the lands to be leased – the 1985 Grand RMP and the 1982 Henry Mountains MFP – nor their accompanying environmental impact statements and subsequent oil and gas cumulative impacts environmental assessments and/or preceding EARs analyze the site specific impacts of oil and gas leasing and development, or the impacts of related activities. In particular, these documents contain no analysis of any impacts of oil and gas leasing and development and related activities on the wilderness characteristics of the lands the agency decided to lease on June 25, 2004 because, at the time the documents were prepared, the BLM did not know that the lands possessed wilderness characteristics.

36. On June 14, 2004 SUWA protested the inclusion of 25 parcels in the June 25, 2004 lease sale without no surface occupancy stipulations.

37. Of those 25 protested parcels, the 16 parcels identified *supra* in paragraphs 32 and 33 were sold competitively on June 25, 2004, or non-competitively the following day, on June 26, 2004. Each of these parcels is located in areas that have been proposed for wilderness designation in America's Redrock Wilderness Act (H.R. 1919/S. 1170).

38. Oil and gas development and associated activities in parcels UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168, UT 0604-169, UT 0604-170, UT 0604-171, UT 0604-172, UT 0604-173, UT 0604-174, UT 0604-175, UT 0604-176, and UT 0604-237 will significantly affect the wilderness and other resources of the leased parcels. These activities include the construction and maintenance of access roads, wells, drill

pads, pipelines, noisy compressor stations that run 24 hours a-day, and waste pits. There will be constant traffic on the roads to maintain these facilities, as well as noise and destruction of the existing naturalness of these lands.

39. SUWA alleged in its Protest of the June 25, 2004 lease sale that the BLM's decision to lease the 16 parcels violated NEPA and other federal laws and their implementing regulations.

40. None of the 16 parcels that SUWA protested, and that BLM sold competitively, were issued with unconditional NSO stipulations that covered all the leased surface lands.

41. BLM denied SUWA's protest in its entirety on September 30, 2005.

42. BLM completed the leasing transaction and issued the 16 leases at issue from the June 2004 lease sale on or about October 1, 2005.

May 2005 Lease Sale

43. In the winter of 2005, the BLM's Utah state office published a preliminary sale list for the quarterly competitive oil and gas lease sale to be held on May 17, 2005. Utah BLM field offices prepared and completed DNAs in the winter and early spring of 2005. On March 18, 2005, the BLM notified the public that the agency intended to offer 164 parcels at its May 17, 2005 oil and gas competitive lease sale. BLM issued a finding of no significant impact regarding the May 17, 2005 sale.

44. Six of the 137 parcels sold at the May 2005 lease sale are located in whole or in part on lands that the BLM itself determined between 1996-1999 to have wilderness character, as defined by the Wilderness Act. These lands are located in the Coal Canyon WIA (UT 0505-172, UT 0505-173, UT 0505-174, UT 0505-175) and the Flume Canyon WIA (UT 0505-211, UT 0505-213).

45. Seven of the 137 parcels sold at the May 2005 lease sale are located in whole or in part on lands that the BLM itself determined between 2001-2006 have a reasonable probability of

wilderness character. These lands are located in the Lost Springs Wash RPD (UT 0505-152, UT 0505-153, UT 0505-154, UT 0505-155), Dome Plateau RPD (UT 0505-201, UT 0505-202), and Hideout Canyon RPD (UT 0505-209).

46. Seven of the 137 parcels sold at the May 2005 lease sale are located in whole or in part on lands that the BLM currently manages pursuant to pre-FLPMA EARs and MFPs, and include the following: UT 0505-140, UT 0505-144, UT 0505-149, UT 0505-152, UT 0505-153, UT 0505-154, and UT 0505-155.

47. Neither the DNAs prepared by BLM for the May 17, 2005 oil and gas lease sale, nor the environmental analyses they allege to tier to, provide a site-specific analysis of the impacts of oil and gas leasing and development. The site-specific impacts of oil and gas development can be significant, particularly in roadless areas and/or areas substantially unaffected by human activity. Construction and operation of wells, towers, pumps, pipelines, roads, and waste pits can destroy wilderness qualities and scenic values, degrade air quality as well as habitat for plants and animals, and negatively affect the quantity and quality of water resources. Cultural and historic properties can be destroyed.

48. In addition, neither the BLM land use plans that address the lands to be leased – the 1985 Grand RMP and the 1982 Price River MFP – nor their accompanying environmental impact statements and subsequent oil and gas cumulative impacts environmental assessments and/or preceding EARs analyze the site specific impacts of oil and gas leasing and development, or the impacts of related activities. In particular, these documents contain no analysis of any impacts of oil and gas leasing and development and related activities on the wilderness characteristics of the lands the agency decided to lease on May 17, 2005 because, at the time the documents were prepared, the BLM did not know that the lands possessed wilderness characteristics.

49. On May 2, 2005 SUWA protested the inclusion of 63 parcels in the May 17, 2005 lease sale without no surface occupancy stipulations.

50. Of those 63 protested parcels, the 16 parcels identified *supra* in paragraphs 44, 45, and 46 were sold competitively on May 17, 2005 or non-competitively the following day, on May 18, 2005. Each of these parcels is located in areas that have been proposed for wilderness designation in America's Redrock Wilderness Act (H.R. 1919/S. 1170).

51. Oil and gas development and associated activities in parcels UT 0505-140, UT 0505-144, UT 0505-149, UT 0505-152, UT 0505-153, UT 0505-154, UT 0505-155, UT 0505-172, UT 0505-173, UT 0505-174, UT 0505-175, UT 0505-201, UT 0505-202, UT 0505-209, UT 0505-211, and UT 0505-213 will significantly affect the wilderness and other resources of the leased parcels. These activities include the construction and maintenance of access roads, wells, drill pads, pipelines, noisy compressor stations that run 24 hours a-day, and waste pits. There will be constant traffic on the roads to maintain these facilities, as well as noise and destruction of the existing naturalness of these lands.

52. SUWA alleged in its Protest of the May 17, 2005 lease sale that the BLM's decision to lease the 16 parcels violated NEPA and other federal laws and their implementing regulations.

53. None of the 16 parcels that SUWA protested, and that BLM sold competitively, were issued with unconditional NSO stipulations that covered all the leased surface lands.

54. BLM denied SUWA's protest in its entirety on September 30, 2005.

55. BLM completed the leasing transaction and issued the 16 leases at issue from the May 2005 lease sale on or about October 1, 2005.

FIRST CAUSE OF ACTION
Violation of NEPA and its Implementing Regulation
Failure to Prepare Supplemental NEPA Analysis

56. Plaintiffs incorporate herein by reference paragraphs 1-55 above.

57. NEPA requires BLM to “prepare supplements to either draft or final environmental impact statements if . . . there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 C.F.R. § 1502.9.

58. This “duty to supplement” applies equally to draft or final environmental impact statements and environmental assessments.

59. As set forth above, the BLM has significant new information from its own wilderness inventory conducted between 1996-1999 regarding the wilderness character and other special values of the lands affected by the following 20 challenged lease parcels: UT 0204-037, UT 0204-092, UT 0204-093, UT 0204-118, UT 0204-119, UT 0204-121, UT 0204-122, UT 0204-123, UT 0204-125, UT 0204-111, UT 0204-127, UT 0204-128, UT 0204-129, UT 0204-130, UT 0505-172, UT 0505-173, UT 0505-174, UT 0505-175, UT 0505-211, and UT 0505-213. This information is not reflected in any existing BLM land use plan or NEPA analyses, all of which pre-date the BLM’s 1996-1999 wilderness inventory.

60. As set forth above, the BLM has significant new information provided by SUWA between 2001-2003 and confirmed by BLM staff between 2001-2007 regarding the wilderness character and other special values of the lands affected by the following 4 challenged lease parcels: UT 0204-079, UT 0204-081, UT 0204-082, UT 0204-083, UT 0204-093, UT 0204-095, UT 0204-100, UT 0204-101, UT 0204-118, UT 0204-119, UT 0204-120, UT 0204-121, UT 0204-124, UT 0204-107, UT 0204-108, UT 0204-109, UT 0204-110, UT 0204-112, UT 0204-127, UT 0204-129, UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168, UT 0604-171, UT 0604-173, UT 0604-176, UT 0604-169, UT 0604-170, UT 0604-

237, UT 0505-152, UT 0505-153, UT 0505-154, UT 0505-155, UT 0505-209, UT 0505-201, and UT 0505-202. This information is not reflected in any existing BLM land use plan or NEPA analyses, all of which pre-date SUWA's 2001-2006 submission of wilderness information and BLM's subsequent on-the-ground confirmation that these values and resources exist.

61. After reviewing this new information, BLM improperly concluded that it was not "significant new information" and thus did not require preparation of a supplemental NEPA document before the agency approved the sale of 60 of the subject oil and gas leases without NSO stipulations.

62. Accordingly, the BLM has violated NEPA's implementing regulation, 40 C.F.R. § 1502.9, and has acted arbitrarily, capriciously, and contrary to law in violation of the APA, 5 U.S.C. § 706(2)(A).

SECOND CAUSE OF ACTION
Violation of NEPA and its Implementing Regulations
Failure to Prepare Adequate Pre-Leasing NEPA Analyses

63. Plaintiffs incorporate herein by reference paragraphs 1-62 above.

64. NEPA requires that federal agencies evaluate the environmental effects of their actions prior to the point of irreversible and irretrievable commitment. 42 U.S.C. § 4332. The issuance of oil and gas leases constitutes the point of an irreversible commitment in the BLM's fluid mineral leasing program. BLM Manual H-1624-1, Planning for Fluid Mineral Resources, Chapter I(B)(2).

65. NEPA further directs federal agencies to prepare an environmental impact statement (EIS) on a proposed major action that may have significant environmental impacts to "insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking." 42 U.S.C. §§ 4332(2)(B) & (C). *See* 40 C.F.R. Part 1502. The EIS must take a "hard look" at the environmental effects of the proposed action.

66. If an agency is uncertain whether an EIS should be prepared, NEPA's implementing regulations permit it to prepare an environmental assessment (EA) to determine whether an EIS is necessary. 40 C.F.R. §§ 1501.4, 1508.9. The EA must provide sufficient evidence and analysis for determining whether to prepare an EIS, or to support a finding of no significant impact (FONSI). 40 C.F.R. § 1508.9.

67. BLM did not prepare the required pre-leasing analysis for the following 22 parcels at issue that are managed by the Richfield and Price Field Offices: UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168, UT 0604-169, UT 0604-170, UT 0604-171, UT 0604-172, UT 0604-173, UT 0604-174, UT 0604-175, UT 0604-176, UT 0505-140, UT 0505-144, UT 0505-149, UT 0505-152, UT 0505-153, UT 0505-154, and UT 0505-155. The environmental documents previously prepared by the BLM that purportedly analyze and authorize the leasing of these 22 parcels – *i.e.*, environmental analysis records (prepared before the Federal Land Policy and Management Act was enacted) and the subsequent oil and gas supplemental EAs – did not consider the no-lease alternative in the context of land use planning and decisions.

68. BLM's failure to prepare an EA or an EIS prior to the sale and issuance of lease parcels UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168, UT 0604-169, UT 0604-170, UT 0604-171, UT 0604-172, UT 0604-173, UT 0604-174, UT 0604-175, UT 0604-176, UT 0505-140, UT 0505-144, UT 0505-149, UT 0505-152, UT 0505-153, UT 0505-154, and UT 0505-155 at the June 2004 and May 2005 oil and gas lease sales was arbitrary, capricious, and contrary to law in violation of the APA, 5 U.S.C. § 706(2)(A).

PRAYER FOR RELIEF

Wherefore, plaintiffs respectfully pray that this Court enter judgment in their favor and against defendants the Bureau of Land Management, the Department of the Interior, and Secretary of the Department of the Interior Dirk Kempthorne and that the Court:

(1) Declare that defendants have violated the National Environmental Policy Act and applicable implementing regulations as set forth above; and

(2) Declare that defendants issued the following 60 leases in violation of the National Environmental Policy Act and its applicable implementing regulations: UT 0204-037, UT 0204-092, UT 0204-093, UT 0204-118, UT 0204-119, UT 0204-121, UT 0204-122, UT 0204-123, UT 0204-125, UT 0204-111, UT 0204-127, UT 0204-128, UT 0204-129, UT 0204-130, UT 0505-172, UT 0505-173, UT 0505-174, UT 0505-175, UT 0505-211, UT 0505-213, UT 0204-079, UT 0204-081, UT 0204-082, UT 0204-083, UT 0204-095, UT 0204-100, UT 0204-101, UT 0204-120, UT 0204-124, UT 0204-107, UT 0204-108, UT 0204-109, UT 0204-110, UT 0204-112, UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168, UT 0604-171, UT 0604-173, UT 0604-176, UT 0604-169, UT 0604-170, UT 0604-237, UT 0505-152, UT 0505-153, UT 0505-154, UT 0505-155, UT 0505-209, UT 0505-201, UT 0505-202, UT 0604-170, UT 0604-172, UT 0604-174, UT 0604-175, UT 0505-140, UT 0505-144, UT 0505-149 and

(3) Award injunctive relief directing defendants to cancel and rescind leases issued in the following **WIAs** – UT 0204-037, UT 0204-092, UT 0204-093, UT 0204-118, UT 0204-119, UT 0204-121, UT 0204-122, UT 0204-123, UT 0204-125, UT 0204-111, UT 0204-127, UT 0204-128, UT 0204-129, UT 0204-130, UT 0505-172, UT 0505-173, UT 0505-174, UT 0505-175, UT 0505-211, and UT 0505-213 – and in the following **RPDs** – UT 0204-079, UT 0204-081, UT 0204-082, UT 0204-083, UT 0204-093, UT 0204-095, UT 0204-100, UT 0204-101, UT

0204-118, UT 0204-119, UT 0204-120, UT 0204-121, UT 0204-124, UT 0204-107, UT 0204-108, UT 0204-109, UT 0204-110, UT 0204-112, UT 0204-127, UT 0204-129, UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168 UT 0604-171, UT 0604-173, UT 0604-176, UT 0604-169, UT 0604-170, UT 0604-237, UT 0505-152, UT 0505-153, UT 0505-154, UT 0505-155, UT 0505-209, UT 0505-201, and UT 0505-202 and prohibiting the defendant agency BLM from re-offering these leases until the agency conducts supplemental NEPA analyses evaluating and analyzing the significant new information of wilderness characteristics in these lease parcels; and

(4) Award injunctive relief directing defendants to cancel and rescind leases UT 0604-162, UT 0604-163, UT 0604-164, UT 0604-165, UT 0604-166, UT 0604-167, UT 0604-168, UT 0604-169, UT 0604-170, UT 0604-171, UT 0604-172, UT 0604-173, UT 0604-174, UT 0604-175, UT 0604-176, UT 0505-140, UT 0505-144, UT 0505-149, UT 0505-152, UT 0505-153, UT 0505-154, and UT 0505-155 and prohibiting the defendant agency BLM from re-offering these leases until BLM prepares an environmental impact statement or environmental assessment that fully analyzes and considers the no-lease alternative; and

(5) Retain jurisdiction of this action to ensure compliance with its decree; and

(6) Award plaintiffs the costs they have incurred in pursuing this action, including attorneys' fees, as authorized by the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and other applicable provisions; and

(7) Grant such other and further relief as is proper.

Dated: January 23, 2008

Respectfully submitted,

/s/ Stephen Bloch

Stephen Bloch
Southern Utah Wilderness Alliance

Attorney for Plaintiffs
Southern Utah Wilderness Alliance *et al.*