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Sent by Fax

Re: August 2008 Montana BLM Statewide Oil and Gas Lease Sale

Montana Trout Unlimited represents the 3,200 members and 13 chapters in Montana, with a mission to conserve, protect and restore the coldwater fisheries and their watersheds. Montana Trout Unlimited is not against oil and gas leasing on public lands. Instead, we advocate for development that does not make oil and gas activities the dominant land use while setting aside special areas and ensuring lease stipulations, environmental mitigation, and enforcement are effective to guarantee protection of fish and wildlife and their habitats. Many of our members fish in streams located on, or that flow from, BLM lands administered by the Montana BLM Butte Field Office and have a passion for the conservation of these watersheds and the coldwater fisheries they support.

Due to our interest in conserving coldwater fisheries within the Butte Field office, we are deeply concerned about offering leases while in the middle of revising the resource management plan for the area. While we feel that no leases should be offered while revising the RMP, there are three leases in the upcoming August 26, 2008 oil and gas lease sale that are of particular concern: MT-08-08-01, MT-08-08-02 and MT-08-08-10. These leases are adjacent to the Missouri River or tributaries thereof and appear to be authorized by the woefully outdated 1984 Butte Resource Management Plan. Additionally, these leases fail to put in place up front protections that these fisheries warrant as Red Ribbon classified streams and Westslope cutthroat trout habitat. For these reasons, and others described below, Montana Trout Unlimited protest the inclusion of leases MT-08-08-01, MT-08-08-02, and MT-08-08-10 in the August 26, 2008, Montana BLM statewide oil and gas lease sale.

Protest Points

The BLM Butte Field Office is in the process of revising its 24 year old Resource Management Plan (RMP). The management plan being revised in this instance is the Headwaters Resource Management Plan (1984). Montana Trout Unlimited has provided comments on the current Draft of the new RMP that specifically relate to oil and gas leasing and protections should be in place for coldwater fisheries before leases are offered. We are disappointed to find that leases being offered in the Butte Resource Management Planning Area in the middle of the planning process, that the planning process is being short circuited, and that our comments relating to the lands and resources for which leasing will create and irretrievable commitment of resources are not being considered. Putting these parcels up for sale in the middle of a planning process that will make land use allocations for oil and gas leasing is irresponsible and does not allow for a full consideration of the impacts, nor does it ensure that proper protections – based upon a current understanding of oil and gas drilling impacts – are in place.

Leasing while in the middle of a Resource Management Plan revision is particularly egregious in this instance given the age of the prior RMP that, as we understand, made these lands available for leasing and specify the stipulations that will apply. Twenty four years ago is a long time and, given that Montana Trout Unlimited has been informed by the BLM in prior protests and meetings that it is during the land use planning process that decisions for what lands will be available for leasing and under what conditions are made, we feel that it is unreasonable to offer these lands when over two decades has elapsed from the time the decision to allow the land in question to be leased was made, and when they are to be offered for lease at auction.

An instruction memo from the Director of the BLM seems to agree, stating that:

"All SOs are to consider temporarily deferring oil, gas and geothermal leasing on federal lands with land use plans that are currently being revised or amended. A decision temporarily to defer could include lands that are designated in the preferred alternative of draft or final RMP revisions or amendments as: 1) lands closed to leasing; 2) lands open to leasing under no surface occupancy; 3) lands open to leasing under seasonal or other constraints with an emphasis on wildlife concerns; or 4) other potentially restricted lands." (Instruction Memorandum No. 2004- 110 Change 1)

Whereas these lands in question are in areas that would be subject to leasing stipulations under the preferred alternative, as shown in the Draft Butte RMP on Map 43: *Oil and Gas Leasing Restrictions Under Alternative B*, including those meant to protect Special Recreation Management Areas and Westslope cutthroat trout habitat, this memo applies and we feel that the discretion to defer these leases should be exercised..

Specific to lease MT-08-08-10, Montana TU recognizes that this is a split estate situation in which the surface is privately owned while the BLM manages the subsurface mineral estate. Despite this reality, we are concerned that this lease is being offered without resource protection measures necessary to protect the coldwater fishery found in South Fork of Sixteenmile Creek, a stream that according to the Montana Fisheries Information System, contains Westslope cutthroat trout based upon professional judgment.

(<http://maps2.nris.mt.gov/scripts/esrimap.dll?name=MFISH&Cmd=INST> website accessed on August 8, 2008)

For reference, Montana Trout Unlimited made the following comment regarding split estate lands when commenting on the Butte Draft RMP EIS:

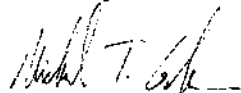
"In the Draft EIS, lands known as split estate - where BLM manages the mineral estate while the surface is under separate ownership - are not identified. A map of these lands needs to be provided in the Final RMP EIS and stipulations developed that would accompany any of these split estate lands should the BLM lease them for oil and gas development. While it is true that the BLM does not have the authority to manage the surface of these lands, as the mineral estate manager, BLM should include as part of any lease contract sold, applicable stipulations identical to those that BLM managed lands are subject to that, if violated, would nullify the contract with the lease holder, voiding the lease. Whereas, a lease for split estate lands is nothing more than a contract between BLM and a lease holder, the BLM has the authority to impose such a provision in split estate leases and Montana Trout Unlimited feels very strongly that it is the BLM's responsibility to manage all mineral estates that BLM controls uniformly for the protection of our public fish, wildlife, and streams."

Regarding protections necessary for Westslope cutthroat trout, Montana TU made the following comment:

"NSO stipulations need to be increased to the entire watersheds in order to meet the intent of the Memorandum of Understanding and Conservation Agreement for Westslope Cutthroat Trout and Yellowstone Cutthroat Trout in Montana"

This highlights our concern with offering leases during the revision of the Resource Management Plan for the Butte Field office. We have commented on issues relative to oil and gas leasing and coldwater fisheries with under the understanding that this revised Resource Management Plan would dictate future leasing, yet in the middle of the planning process leases are now being offered for which our comments have direct relevance. We strongly feel that this undermines the planning process and our participation and we urge you to defer leases MT-08-08-01, MT-08-08-02 and MT-08-08-10, finish the Butte RMP, and only then reconsider offering these parcels for sale with what we hope will be effective stipulations, or if the resources dictate, make a no lease decision for these parcels.

Sincerely,



Michael Gibson.
Outreach Director