

October 20, 2008

BY FACSIMILE

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RE: PROTEST OF MONTANA BLM NOVEMBER 4, 2008, LEASE SALE OF FOUR PARCELS IN BEAVERHEAD COUNTY.

INTRODUCTION

On behalf of the Theodore Roosevelt Conservation Partnership (hereinafter referred to as "TRCP" or "Protester"), I respectfully protest the inclusion of the four proposed lease sale parcels totaling 5,239.05 acres listed below, in Beaverhead County within the state of Montana and request that these parcels be withdrawn from the November 4, 2008, lease sale. This protest is filed pursuant to 43 C.F.R. §§ 4.450-2 and 3120.1-3.

PROTESTED LEASE SALE PARCELS

MT-11-08-11 (MTM 98538); MT-11-08-12 (MTM 98539); MT-11-08-13 (MTM 98540); MT-11-08-14 (MTM 98541).

EXPLANATORY NOTES AND ABBREVIATIONS

For reader clarity, the following abbreviations and persons used or referred to in this Protest are listed below:

- FWP - Montana Department of Fish, Wildlife & Parks
- Jim Roscoe - Retired BLM wildlife biologist in Dillon; currently High Divide Program Coordinator with American Wildlands in Dillon
- Bob Brannon - FWP wildlife biologist in Butte
- Craig Fager - FWP wildlife biologist in Dillon

MULE DEER AND PRONGHORN HABITAT AND WINTER MIGRATIONS

FWP has identified parcels MT-11-08-11 (MTM 98538); MT-11-08-12 (MTM 98539); MT-11-08-13 (MTM 98540); and MT-11-08-14 (MTM 98541) in Beaverhead County as seasonal habitat for resident herds of mule deer and pronghorn. Jim Roscoe found that grounds within 0.25-3 miles of MT-11-08-11 (MTM 98538) – namely, T14S, R7W, Sections 14, 15 and 16 – provide critical annual winter migration corridors for mule deer and pronghorn. BLM should address seasonal habitat and current migration corridors for mule deer and pronghorn. There are no stipulations addressing migration needs in the list of applicable stipulations. It is possible that the mechanical and vehicle disturbances and road networks incident to oil and gas exploration in close proximity to existing big game habitat and migration corridors will jeopardize the resident mule deer and pronghorn herds and lead to losses of both herds over time.

The proliferation of well service roads and industry vehicle traffic alone in known ranges of mule deer will predictably lead to population declines according to 30 years of field research conducted by western state fish and wildlife agencies, the USDA Forest Service and several major universities. Recent mule deer counts conducted over a three-year period showed a 46 percent decline in mule deer abundance in

the Pinedale Anticline Project Area in Wyoming despite timing stipulations to minimize impacts on wintering deer (Sawyer *et al.* 2006). Deer in drilling areas that had high deer use (high value habitat) in winter were displaced to low-value habitat with a lower herd carrying capacity, resulting in the documented herd decline over time. The biological principles and conclusions reached in these studies are applicable to the parcels cited in this Protest.

Sawyer *et al.* (2006) contains the following conclusions vital to a proper analysis of the impact of leasing the affected parcels and to formulation of a proper mitigation plan:

- Mule deer rely on several important seasonal ranges, including winter and transition ranges, which generally provide mule deer with better foraging opportunities.
- Managers should not overlook the importance of all seasonal ranges for maintaining healthy and productive mule deer populations. Summer, transition, and winter ranges are equally important; loss or degradation of one will not be compensated for by the others.
- Relatively small amounts of direct habitat loss can affect winter distribution patterns of mule deer and the effects of direct habitat loss may be long term for species like mule deer that rely on native shrubs (*i.e.*, sagebrush).
- Migrations between summer and winter ranges generally follow traditional routes that are learned and passed on from mother to young. Without migratory routes, many seasonal ranges would be inaccessible to mule deer, and it is unlikely current populations could be maintained.
- Identifying and conserving migration routes to and from seasonal ranges is a key component to successful mule deer management.

Sawyer (2007) found impacts to mule deer from gas development include direct and indirect habitat losses that can potentially result in reduced population performance. Direct habitat loss occurs when native vegetation is converted to access roads, well pads, pipelines, and other project features. Indirect habitat losses occur when wildlife are displaced or avoid areas near infrastructure because of increased levels of disturbances from, traffic, noise, pollution, and human presence. The threats to mule deer are widespread, and the most significant adverse impacts do not occur on the land at drilling sites because these lands can be reclaimed. Trucks, personnel, equipment, roads and facilities associated with ongoing operations displace wintering mule deer from favored habitat.

Deer in Colorado avoid roads, particularly areas within 200 meters of a road (Rost and Bailey, 1979). Roads reduce big game use of adjacent habitat from the road edge to over 0.5 mile away (Berry and Overly, 1976). Roads are a major contributor to habitat fragmentation by dividing large landscapes into smaller patches and converting interior habitat into edge habitat. With increased habitat fragmentation across large areas, the populations of some species become isolated, increasing the risk of local extirpations or extinctions (Noss and Cooperrider, 1994). In the protested parcels, there is no evidence that BLM considered the adverse effects of road building, high road densities and frequent heavy vehicle traffic incident to natural gas development on mule deer herds.

TRCP requests that the BLM withdraw parcels MT-11-08-11 (MTM 98538); MT-11-08-12 (MTM 98539); MT-11-08-13 (MTM 98540); and MT-11-08-14 (MTM 98541) from the November 4 lease sale based on concerns for mule deer and pronghorn habitat and migration corridors.

SAGE GROUSE LEKS, BROOD-REARING GROUNDS, WINTER HABITAT AND MIGRATION STAGING AREAS

Bob Brannon and Craig Fager have identified parcel MT-11-08-14 (MTM 98541) particularly as within 2 miles of known sage grouse leks and has recommended No Surface Occupancy accordingly. All four of the parcels are within 4 miles of the Lima Reservoir 6 lek and some are within 4 miles of the Snowline lek. Further, Jim Roscoe has recorded that grounds within 0.25-3 miles of MT-11-08-14 (MTM 98541) –

namely, T14S, R7W, Sections 14, 15 and 16 - are nesting and brood rearing habitat for sage grouse, and also function as the staging area for annual migrations to the Snowline area and Idaho. Peer-reviewed scientific information on sage grouse use and avoidance of parcels by Dr. David Naugle shows gas development within ½ mile of leks resulted in adverse impacts to sage grouse, and current lease stipulations that prohibit development within ¼ mile of sage-grouse leks on federal lands are inadequate to ensure lek persistence. While FWP wildlife biologist Bob Brannon recommended a year-round NSO within 2 miles of an active lek and no drilling or production activity within 4 miles of occupied nests in the period March 1 to June 30, Naugle concluded that seasonal restrictions on drilling and construction do not address impacts caused by loss of sagebrush and incursion of infrastructure that can affect populations over long periods of time.

In 2005, the State Director of the BLM signed the Management Plan and Conservation Strategies for Sage Grouse in Montana. The overall goal of this document is for cooperators to implement strategies that "Provide for the long-term conservation and enhancement of the sagebrush steppe/mixed-grass prairie complex within Montana in a manner that supports sage grouse and a healthy diversity and abundance of wildlife species and human uses". Specifically, the document cites Policy Act BLM 6840, "[BLM] State directors, usually in cooperation with state wildlife agencies, may designate sensitive species. BLM shall carry out management, consistent with the principles of multiple use, for the conservation of sensitive species and their habitats and shall ensure that actions authorized, funded, or carried out do not contribute to the need to list any of these species as T&E".

Significant new information from Walker *et al.* (2007a and b) has brought new information that should be considered by BLM in its leasing decisions. The studies show that energy development, particularly natural gas development, is having negative effects on sage-grouse populations over and above those of habitat loss caused by wildfire, sagebrush control, or conversion of sagebrush to pasture or cropland. Moreover, the extent of natural gas development explained lek inactivity better than power lines, pre-existing roads, or West Nile virus mortality. Research findings show a lag effect, with leks predicted to disappear, on average, within 4 years of natural gas development. Regardless of other stressors, 22 of 24 lek complexes (92%) did not go inactive until after natural gas development came into the landscape.

Additionally, FWP is currently in the process of delineating statewide sage-grouse core areas. FWP expects to have a draft core area map ready for review in October, with mapping completed prior to December 31, 2008 or sooner. Since the mapping is not yet completed, it is not yet known if the parcels listed in this protest will be among those identified as core habitat. Until the maps are completed, TRCP believes that, considering the status of sage grouse, the results of recent research, the additional research that is needed to avoid addition impacts related to energy development, and agreement between FWP and BLM to cooperate through the Montana Management Plan for Sage Grouse, a conservative approach to leasing and development near sage grouse leks is warranted.

TRCP requests that the BLM withdraw parcels MT-11-08-11 (MTM 98538); MT-11-08-12 (MTM 98539); MT-11-08-13 (MTM 98540); MT-11-08-14 (MTM 98541) from the November lease sale based on concerns for sage grouse habitat and migration staging areas.

PROTESTER

A. Theodore Roosevelt Conservation Partnership

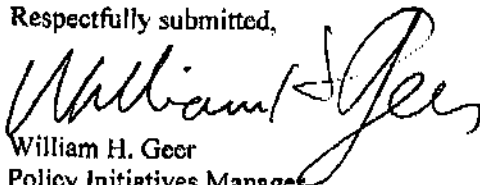
The Theodore Roosevelt Conservation Partnership is a national non-profit conservation organization (501-c-3) that is dedicated to guaranteeing every American places to hunt or fish. TRCP accomplishes its goal through three areas of concern, access to public lands, funding for natural resource agencies, and conservation of fish and wildlife habitat. TRCP has formed, with various partners, a Fish, Wildlife, and Energy Working Group, which is comprised of some of the country's oldest and most respected hunting, fishing, and conservation organizations.

TRCP is works to ensure that the development of oil and gas resources on public lands in the Rocky Mountains is balanced with the needs of fish and wildlife resources. We are especially concerned with the fate of mule deer, pronghorn and sage grouse, and the recreational opportunities they provide tens of thousands of sportsmen each fall in Montana.

CONCLUSION

For the reasons stated above, TRCP requests that BLM withdraw parcels MT-11-08-11 (MTM 98538); MT-11-08-12 (MTM 98539); MT-11-08-13 (MTM 98540); MT-11-08-14 (MTM 98541) totaling 5,239.05 acres in Beaverhead County from the November 4, 2008, lease sale based on concerns for mule deer, pronghorn and sage grouse habitat and migration staging areas and corridors.

Respectfully submitted,



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Sources of Information

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