



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Utah State Office  
440 West 200 South, Suite 500  
Salt Lake City, UT 84101-1345  
<http://www.blm.gov/utah>

In Reply Refer To:  
3100 (UT922000)

February 8, 2019

CERTIFIED MAIL – ELECTRONIC SIGNATURE REQUESTED  
91 7199 9991 7038 2306 3312

## DECISION

Josh Ewing :  
Executive Director : Protest to the Inclusion of 11  
Friends of Cedar Mesa : Parcels in the December 11, 2018  
Post Office Box 338 : Competitive Oil and Gas Lease Sale  
Bluff, UT 84512 :

### Protest Dismissed

On October 25, 2018, the Bureau of Land Management (BLM) Utah State Office posted a Notice of Competitive Oil and Gas Lease Sale (NCLS) that identified 105 parcels the BLM intended to offer for oil and gas leasing at a competitive lease sale to be held on December 11, 2018 (December 2018 Lease Sale). The NCLS also provided formal notice of a 10-day public protest period for the December 2018 Lease Sale, which ended on November 5, 2018. By letter received on November 5, 2018, Friends of Cedar Mesa (FCM) submitted a timely protest to the inclusion in the sale of the following 11 parcels<sup>1</sup> located on public lands administered by the BLM’s Monticello Field Office:

UTU93722 (UT1218-301),      UTU93731 (UT1218-327),      UTU93744 (UT1218-362),  
UTU93728 (UT1218-324),      UTU93733 (UT1218-329),      UTU93746 (UT1218-364),  
UTU93729 (UT1218-325)      UTU93742 (UT1218-360)      UTU93747 (UT1218-365).  
UTU93730 (UT1218-326),      UTU93743 (UT1218-361),

For the reasons set forth below, the protest is dismissed.

---

<sup>1</sup> FCM stated that it was protesting 21 parcels, but only listed 12 at the end of its protest. It also included in the list of “parcels” protested one “sold but not issued” (SNI) lease that was included in the DNA as having been found to have been adequately analyzed in the referenced NEPA documents and potentially, after an official decision to that effect is signed, could be issued. This SNI lease was not included in the NCLS and was not part of the lease sale, and thus cannot be protested

43 C.F.R. § 3120.1-3 allows for protests to the inclusion of specific parcels listed in a NCLS. The FCM protest lists 12 parcels, 11 of which were included in the NCLS. However, the FCM does not identify any specific parcels from the NCLS in the portions of its protest in which it generally alleges that the BLM has failed to comply with the National Historic Preservation Act (NHPA), failed to comply with the National Environmental Policy Act (NEPA), and violated the Endangered Species Act (ESA).

It is well established that the BLM properly dismisses a protest where the protestant makes only conclusory or vague allegations or the protestant's allegations are unsupported by facts in the record or competent evidence. *See, e.g., Southern Utah Wilderness Alliance*, 122 IBLA 17, 20-21 (1992); *John W. Childress*, 76 IBLA 42, 43 (1983); *Patricia C. Alker*, 70 IBLA 211, 212 (1983); *Geosearch, Inc.*, 48 IBLA 76 (1980). The BLM is under no obligation to sort through a protestant's list of alleged errors and attempt to discern which alleged errors the protestant intended to invoke for a particular parcel. Such an unduly burdensome and inefficient process would unreasonably divert the time and resources that the BLM otherwise needs to manage the public lands as mandated by Congress. The FCM protest suffers from the same fundamental flaws regarding its NHPA, NEPA and ESA-based allegations. For instance, the FCM has not indicated which specific parcels had deficient NHPA cultural resource identification and analysis, which specific parcels must have mitigation measures, or the inclusion in the lease sale of which specific parcels violated ESA due to the claimed presence listed species habitat.

For the BLM to have a reasonable basis to consider future FCM protests on these issues, the FCM must identify for each parcel it protests, the specific ground for protest and explain how it applies to the parcel. Any allegations of error based on fact must be supported by competent evidence, and a protest may not merely incorporate by reference arguments or factual information provided in a previous protest or court ruling. Further, the FCM must consider whether any lease stipulations or notices that apply to a particular parcel may be relevant to its allegations, and explain how such stipulations or notices do not obviate the allegations. Failure to comply with any of the foregoing may result in the summary dismissal of the protest.

This decision may be appealed to the Interior Board of Land Appeals (Board), Office of the Secretary, in accordance with the regulations contained in 43 C.F.R. Part 4 and the enclosed Form 1842-1. If an appeal is taken, the notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay, pursuant to 43 C.F.R. § 4.21, during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay must show sufficient justification based on the standards listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall be evaluated based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

Copies of the notice of appeal, petition for stay, and statement of reasons also must be submitted to the other parties named in this decision and to the Office of the Solicitor, Intermountain Region, 125 South State Street, Suite 6201, Salt Lake City, Utah 84138, at the same time the original documents are filed in this office.

If you have any further questions, please contact Sheri Wysong of this office at (801) 539-4067.

Sincerely,

/S/ Kent Hoffman

Kent Hoffman  
Deputy State Director,  
Division of Lands and Minerals

Enclosure

cc:

Office of the Solicitor, Intermountain Region,  
BLM Monticello Field Office (UTY02)