



# United States Department of the Interior



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In Reply Refer To:  
3100 (UT-922000)

February 8, 2019

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## DECISION

Stephen H. M. Bloch	:	
Laura Peterson	:	
Landon Newell	:	Protest to the Inclusion of Three
Southern Utah Wilderness Alliance et. al.	:	Parcels in the December 11, 2018
425 East 100 South	:	Competitive Oil and Gas Lease Sale
Salt Lake City, UT 84111	:	

### 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).<sup>1</sup> 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, the Southern Utah Wilderness Alliance, The Wilderness Society, WildEarth Guardians, Waterkeeper Alliance, Green River Action Network, Living Rivers & Colorado Riverkeeper, Western Watersheds Project, Sierra Club, and Center for Biological Diversity (collectively SUWA) jointly submitted a timely protest to the inclusion in the sale of the following three parcels located on public lands administered by the BLM's Price Field Office:

UTU93643 (UT1218-014)      UTU93644 (UT1218-016)      UTT93713 (UT1218-257)

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

The following protest contention is summarily dismissed:

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<sup>1</sup> Three of the 105 Parcels were located in the Price Field Office

**Protest Contention: San Rafael Desert Master Leasing Plan (MLP)...Leasing of parcel 257 is not supported without additional planning and analysis.**

This contention is summarily dismissed because SUWA failed to indicate how any of the issues discussed in its protest, other than the fact that parcel 257 lies within the proposed San Rafael Desert MLP boundary, applies to parcel 257. For the BLM to have a reasonable basis to consider future SUWA protests on the issues that it chooses to raise, SUWA must identify for each parcel it protests, the specific ground for protest and explain how it applies to the identified 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. SUWA must also 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.

Further, the BLM previously responded to a similar contention for parcels offered in the September 2018 Lease Sale. *See* Protest Decision dismissing SUWA's Protest at 7 (October 23, 2018). The September 2018 Lease Sale EA, DOI-BLM-UT-0000-2018-0001-EA, analyzed impacts associated with development from the leasing of 75 parcels within the San Rafael Desert MLP. The BLM reviewed this analysis while completing the Determination of NEPA Adequacy (DNA) for the Price Field Office December 2018 Lease Sale, DOI-BLM-UT-G020-2018-0057-DNA. The BLM also used the Reasonably Foreseeable Development (RFD) Scenario for Oil and Gas in the San Rafael Master Leasing Plan Area in analyzing impacts from leasing the protested parcels. *See* Cultural Resources Report at 4; September 2018 Lease Sale EA at 11.

The BLM responds to the other contentions from SUWA's protest letter below.

**Protest Contention 1: The BLM Failed to Provide Meaningful Opportunity for Public Participation under NEPA and FLPMA. Because the entire process of identifying, reviewing, and offering oil and gas lease sales for the BLM's December 2018 leasing process is fundamentally compromised by the unlawful provisions of IM 2018-034, the BLM must defer all parcels in the December 2018 lease sale.**

**Protest Response 1:** The BLM acknowledges the District of Idaho's preliminary injunction (PI) of portions of BLM IM 2018-034 as it applies to all potential lease parcels in sage grouse habitat management areas. However, since the PI is not a final order and the parcels at issue in the protest are outside of such areas, the public comment period associated with the NCLS remains unchanged under IM 2018-034 and, thus, there was no need to defer parcels from the December 2018 Lease Sale.

**Protest Contention 2: The BLM's Treatment of Cultural Resources Violated the National Historic Preservation Act (NHPA). The BLM's No Adverse Effect Determination is Unsupported and Arbitrary.**

**Protest Response 2:** In this protest contention, SUWA quotes and paraphrases Section 106 of the NHPA and its implementing regulations found at 36 C.F.R. Part 800. The copying of these

references is informative to the reader; however the reference to these regulations appears intended to imply that they were not followed. This implication is factually incorrect. The BLM's compliance with these regulations is shown in detail in the BLM's cultural resource report and listed in the NEPA documentation. As described in the BLM's cultural resource report, the BLM met the NHPA requirements through:

1. Completion of the consultation process outlined in 36 C.F.R. § 800.2 – *Participants in the Section 106 Process*. Which included consultation with Tribes, local governments, federal agencies, the State Historic Preservation Officer (SHPO), and numerous environmental groups (including SUWA),
2. The BLM's declaration of the undertaking in 36 C.F.R. § 800.3 *Initiation of the section 106 process*, as listed in the BLM's cultural resource report,
3. Completing consultation for the Area of Potential Effect found in 36 C.F.R. § 800.4 *Identification of historic properties*, which is formally documented in the BLM's cultural resource report,
4. Completion of a good faith and reasonable identification effort which meets the parameters listed in 36 C.F.R. § 800.4 *Identification of historic properties* and which follows the guidance within the Advisory Council on Historic Preservation's document titled *Meeting the "Reasonable and Good Faith" Identification Standards in Section 106 Review*, all of which is found in the BLM's cultural resource report,
5. The application of 36 C.F.R. § 800.5 – *Assessment of adverse effects* to the undertaking by analyzing each oil and gas lease parcel through a reasonably foreseeable development scenario, which is documented in the BLM's cultural resource report and,
6. After completing the consultation process and analyzing the known cultural resource information, development and use potential, environmental setting, and protective oil and gas lease stipulations for cultural resources, the BLM found that each of the subject oil and gas lease parcels could be leased without adverse effects to historic properties. The BLM then wrote a letter to the Utah State Historic Preservation Office (SHPO) with the BLM's finding of "no adverse effect". The SHPO concurred with the BLM's finding on October 25, 2018.

In summary, the BLM fully complied with Section 106 of the NHPA with respect to the protested parcels.

Regarding the BLM's finding of "no adverse effect", SUWA argues that the "BLM provides no support for its claim that each parcel within the Price field office can accommodate reasonably foreseeable development...The agency simply claims that direct impacts can be avoided by 'judicious well placement' and visual and auditory effects can be avoided based on topographic variation and design features...This ignores the fact that oil and gas drilling is an industrial activity with...ground clearing...[and] industrial equipment in a largely pristine setting [that] can adversely affect a sites setting feeling and association." SUWA at 7.

The BLM's incorporation of the Reasonably Foreseeable Development (RFD) scenario for oil and gas development listed in the *Price Field Office Record of Decision and Approved*

*Resource Management Plan (2008) and Reasonably Foreseeable Development Scenario for Oil and Gas in the San Rafael Master Leasing Plan Area Price and Richfield Offices (2016)* for every single parcel, illustrates the BLM's analysis and understanding that the leasing of these parcels may, although not guaranteed, lead to oil and gas development and use. The RFD for the Price Field Office is a total of 10.4 acres for parcels within the San Rafael Master Leasing Plan area and 7.9 acres for parcels in the remainder of the Price Field Office. These RFDs include the industrial nature and use of oil and gas development including the construction of well pads, access roads and ancillary facilities. In addition to the use of the RFDs in the cultural resources report, the BLM's finding of no adverse effect was supported through:

1. The knowledge of qualified federal archaeologists who meet the Office of Personnel and Management Standards for GS-0193 series archaeologist. The BLM archaeologist who worked on this analysis and cultural resource report have years of experience in the region and years of experience redesigning federal undertakings including oil and gas projects to avoid adverse effects to historic properties,
2. A thorough analysis of impacts and effects that took into account parcel size, topography, surface use restrictions, and location, along with potential cultural resource site density, and existing site locations and survey information from Class III – Intensive Pedestrian Survey (Class III) reports. The information from hundreds of Class III survey reports was included in the cultural resources report. In addition to this information and analysis, the BLM consulted with and sought additional information from thirteen Native American Tribes, the SHPO, and consulting parties,
3. Incorporation of the recently completed existing Class I – Existing Information Inventory for the Price Field Office. This document is a summary and analysis of all recorded cultural resources within the Price Field Office, and information gathered through consultation, and
4. Following the Advisory Council on Historic Preservation's (ACHP) *Section 106 Regulations Section-by-Section Questions and Answers Synopsis* which states that only in rare circumstances will "reasonably foreseeable" will not have the same meaning in NHPA and NEPA.

Based on this comprehensive identification effort the BLM determined that disturbance associated the foreseeable development identified in the RFDs could occur within each of the parcels with no adverse effects or adverse impacts to historic properties and cultural resources.

The BLM's finding is neither arbitrary nor capricious. In a letter dated July 26, 2017, regarding the December 2017 Lease Sale, also involving parcels within the Price Field Office, the Utah State Historic Preservation Office stated:

As a final point: in the experience of the UT-SHPO oil and gas development in Utah has led to relatively few adverse effects. Since 1997 the UT-SHPO has reviewed over 400 adverse effect determinations from dozens of agencies.

During this period, the UT-SHPO has not concurred with any adverse effect call from oil and gas leasing activity, and only five from specific federal oil and gas development projects (excluding transmission pipelines). Oil and gas development represents less than 1.5% of all adverse effects in the last 20 years.

In this same period there are records of 9,533 oil and gas wells developed on federal lands, which is illustrative that even with an impressive number of wells and other improvements (roads, staging areas, etc.) the number of adverse effects from development are dramatically low (less than 0.01%).

To put these numbers into perspective, over 1 million acres of federal, state, tribal, and private lands have been archaeologically inventoried and nearly 14,000 archaeological sites have been documented within Utah's oil fields, as defined by the Utah Division of Oil, Gas, and Mining. With these significant numbers of sites and acres inventoried, the incredibly low number of adverse effects to historic properties is equally notable.

The Utah State Historic Preservation Office's letter which documents the few adverse effects related to oil and gas development in Utah for 20 years, supports the BLM's finding of no adverse effect, including the consideration of indirect and cumulative effects.

SUWA also argues that the BLM does not discuss potential impacts from increased visitation, sound or visual impacts to cultural resources. When assessing the potential impacts to cultural resources, the BLM considered the topographic complexity, known site types, potential site density, the reasonably foreseeable development scenario, and the heights of future oil and gas facilities. Based on the types of historic properties, many of which are lithic scatters and historic trash scatters that are common in the protested parcels, the BLM covered all aspects of indirect effects. In addition, the relevant RFDs defined in the cultural resource report includes the "total expected area of disturbance for a single well pad and encompasses the total expected surface disturbance from access, pad and well construction and use, and associated infrastructure" (emphasis added).

SUWA states that the BLM cannot avoid its "hard look" obligation by referencing future NEPA and lease notices. SUWA's assertion ignores the procedures the BLM completed for the cultural resource report. The BLM patterned its NEPA "hard look" and NHPA reasonable and good faith identification based on the Advisory Council for Historic Preservation's (ACHP) document titled Meeting the "Reasonable and Good Faith" Identification Standards in Section 106 Review, found at: [https://www.achp.gov/sites/default/files/guidance/2018-05/reasonable\\_good\\_faith\\_identification.pdf](https://www.achp.gov/sites/default/files/guidance/2018-05/reasonable_good_faith_identification.pdf). This document outlines the steps to determine when a reasonable and good faith identification effort has been met. The ACHP states: Prior to beginning the identification stage in the Section 106 process, the regulations (at 36 C.F.R. § 800.4) require the federal agency to do the following:

- Determine and document the APE [Area of Potential Effect] in order to define where the agency will look for historic properties that may be directly or indirectly affected by the undertaking;

- Review existing information on known and potential historic properties within the APE, so the agency will have current data on what can be expected, or may be encountered, within the APE;
- Seek information from others who may have knowledge of historic properties in the area. This includes the State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO) and, as appropriate, Indian tribes or Native Hawaiian organizations who may have concerns about historic properties of religious and cultural significance to them within the APE.

The BLM's cultural resources report documents how the agency followed this guidance which leads to a "hard look" in NEPA. Furthermore, the BLM's identification efforts, described in the cultural resource report for the December 2018 lease sale undertaking, are consistent with the direction provided in multiple Interior Board of Land Appeals (IBLA) decisions/orders, including *Mandan, Hidatsa, and Arikara Nation*, 164 IBLA 343 (2005), and *Southern Utah Wilderness Alliance*, IBLA 2008-264 (2009).

SUWA states that "BLM improperly premised it's no adverse effect determination on discretionary lease stipulations...BLM thus expressly retains the discretion to approve development that will result in adverse effects...this stipulation does not protect historic properties within BLM's identified APE; it only protects those historic properties within a given parcel's boundaries." SUWA at 8. However, meeting lease stipulation requirements is a critical component of having any future proposed development approved by the BLM. Upon issuance of a lease, any stipulations become a part of the lease. 43 C.F.R. § 3101.1-3. Lease stipulations are enforceable legal requirements that go above and beyond standard lease requirements. Because the lease stipulations become a condition of the lease, they are binding on the lessee and legally enforceable.

Per BLM Handbook H-3120-1 – Competitive Leases, all parcels included in the March 2018 Lease Sale, which includes the protested parcels, will have the protection offered by the BLM Cultural Resource Protection Stipulation. The stipulation reads as follows:

This lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act, American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O. 13007, or other statutes and executive orders. The BLM *will not* approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities. The BLM may require modification to exploration or development proposals to protect such properties, or *disapprove* any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated (emphasis added.)

This stipulation gives the BLM legal authority to require modification to or to disapprove any future activities related to development of these lease parcels if conflicts with historic properties cannot be resolved, regardless of whether those resources are within or without the lease boundaries. In other words, the BLM retains control over future development of the lease and

has the discretion and authority to prevent adverse effects to historic properties. There are no exceptions, modifications, or waivers for this stipulation.

**Protest Contention 3: The BLM Cannot Rely on a Determination of NEPA Adequacy (DNA). The BLM's past use of DNAs Demonstrates the Inappropriateness of Its Use of the Lease Sale DNA.**

**Protest Response 3:** SUWA relies on four recent uses of DNAs to argue that the BLM may only rely on DNAs to re-authorize or slightly modify the same action analyzed in the existing documentation, or to “authorize a step-down version of a project previously analyzed and authorized in a site-specific NEPA document.” *See* SUWA at 9. However, the BLM disagrees with SUWA’s interpretation of how and when the BLM may rely on a DNA. Here, the BLM determined through this DNA that the December 2018 Lease Sale involves elements similar to both the geography and resource conditions analyzed in the respective NEPA reviews underlying the Price RMP, the Price\_ Richfield Field Offices September 2018 Lease Sale EA, the Salt Lake Field Office September 2018 Lease Sale EA, and the Price Field Office November 2015 Lease Sale EA and that further NEPA analysis is unwarranted.

**Protest Contention 4: The Price RMP, December 2015 and September 2018 EAs did not Analyze all of the Site-Specific Direct, Indirect, and Cumulative Impacts of the Issuance and Development of the Protest Parcels. The BLM cannot rely on those documents for analysis of impacts to air quality and Greenhouse Gas emissions and cumulative impacts.**

**Protest Response 4:** SUWA contends that the analysis in the documents upon which a DNA relies must be site specific. However, SUWA fails to contend that the December 2018 Lease Sale’s geography or resource conditions are sufficiently different from the geography and resource conditions analyzed in previous NEPA documents such that additional new NEPA analysis was warranted.

Prior to determining whether new air quality and GHG emissions impacts analysis are necessary, the BLM resource specialists review each lease parcel to determine any resource conflicts that may occur if a particular parcel is developed. This review includes calculating potential emissions (including GHG emissions) based on the location of the parcels. Based on this review, the BLM’s air specialist properly determined that the existing analyses in the Price RMP, December 2015 Lease Sale EA, and the September 2018 Lease Sale EA would not differ in any meaningful way from a new analysis for the new possible leasing and, as a result, the BLM properly used a DNA rather than preparing a new EA.

In regards to cumulative impacts, the EAs listed in Section C of the DNA all provide thorough cumulative impact analyses involving air quality and greenhouse gases. Those cumulative impact analyses reasonably anticipated the level of potential development that may occur from leasing all lands open to leasing in the Price Field Office, and the BLM resource specialists determined the analyses remain adequate.

**Protest Contention 5: The BLM failed to Take a Hard Look at Impacts to Lands with Wilderness Characteristics.**

**Protest Response:** SUWA pointed to confusing language in the ID checklist regarding parcel 257 in making its contention. The ID checklist has been revised to clarify that, although the entire parcel is entirely within the two subunits of the Labyrinth Canyon Units A&B Lands with Wilderness Characteristics, only Unit B was not considered in the 2008 Price RMP for protection of wilderness characteristics. However, impacts to both Units were considered and disclosed in the September 2018 Leasing EA.

On January 31, 2018, the BLM released WO IM 2018-034, which states that, “[i]t is BLM policy that existing land use plan decisions remain in effect until an amendment or revision is complete or approved.” Unless otherwise proscribed by the governing land use plan, the BLM may, after appropriate analysis, decide to approve a proposed action that may impair the wilderness characteristics of Non-Wilderness Study Area lands with wilderness characteristics after analyzing the potential impacts of a proposed action.

### **Protest Contention 6: The BLM failed to take a Hard Look at Impacts to Cultural Resources**

**Protest Response 6:** SUWA alleges that the cultural resources report is deficient because “it makes no attempt to discuss or assess potential impacts to cultural resources” and that its conclusion “that potential effects will be limited” is unsupported. SUWA at 16. SUWA also alleges that the BLM failed to satisfy its obligations under NEPA because it did not consider potential impacts to all cultural resources rather than only historic properties. *See id.*

SUWA has previously raised these concerns and, as discussed below, the BLM has previously responded to them. The cultural resources report is not meant to satisfy NEPA’s requirement but those of the NHPA. To determine if NEPA’s hard look requirement has been met, one must review the NEPA documents listed in Section C of the DNA.

Section C of the DNA includes the EA prepared with respect to 76 parcels that the BLM was considering offering for lease in the September 2018 Lease Sale. In its protest for that lease sale, SUWA made a similar argument to that in this current protest; that the BLM only considered impacts to cultural resources considered as eligible for listing on the National Register of Historic Places. The BLM’s response to SUWA’s allegation was as follows:

Section 3.3.5 of the EA states: “From the records review, *a total of 333 sites have been recorded within these parcels.* A total of 102 have been determined to be eligible to the National Register of Historic Places. The types of eligible and non-eligible prehistoric sites that are present include lithic scatters, lithic quarries, temporary camps, and rock art. The types of eligible and non-eligible historic sites include structures, roads and trails, inscriptions, and artifact scatters.” BLM acknowledged the presence of over twice as many ineligible sites as sites eligible for the NHPA. Section 4.2.3 goes on to state: “Reasonably foreseeable development resulting from leasing within the proposed area has the potential to impact cultural resources, both directly and indirectly. Potential direct effects are physical disturbance of a site from the construction of a well pad, associated

access roads, or associated infrastructure (e.g., pipelines). Given the types of cultural resources known and expected in the area, potential indirect effects include changes to the landscape which result in impacts to a site's setting, feeling, or association; increased rock art exposure to dust resulting from increased traffic on roads; visual impacts to sensitive rock art sites; and the potential to increase public access, potentially leading to increased vandalism and looting." Minor revisions have been made to Sections 4.2.3.2 and 4.3.2.3 in the EA to clarify that impacts may occur to non-eligible cultural resources, but that no adverse effects are expected to occur to eligible historic properties.

Even though the BLM uses a reasonably foreseeable development scenario to analyze potential impacts, leasing conveys only the right to develop a parcel to a lessee but does not approve any surface disturbing activities. In many circumstances, leases offered at a sale are not purchased by a bidder and, if purchased, a lease may never be developed. At the leasing stage, the BLM has no knowledge of when, if, and where development may occur within any of the parcels, meaning that the BLM lacks information necessary to evaluate specific impacts to cultural resources at any specific location. Relying on the reasonably foreseeable development scenario, the BLM analyzed all reasonably foreseeable potential impacts to the protested parcels as required by *Pennaco Energy, Inc. v. U.S. Dep't of the Interior*, 266 F.Supp.2d 1323, 1326 (D.Wyo. 2003), *overruled on other grounds by Pennaco Energy, Inc. v. U.S. Dep't of the Interior*, 377 F.3d 1147 (citing *Park County Res. Council, Inc. v. U.S. Dep't of Agric.*, 817 F.2d 609, 624 (10th Cir. 1987), *overruled on other grounds by Vill. Of Los Ranchos de Albuquerque v. Marsh*, 956 F.2d 970 (10th Cir. 1992)). If the BLM receives an application for permit to drill (APD) or other site-specific development proposal in the future for any of the protested parcels, then further site-specific NEPA and NHPA analysis will be completed at that time.

Additionally, the Cultural Resource Protection Stipulation is included on every lease and provides the BLM the authority to preclude or disapprove any lease activity that is likely to result in adverse effects or impacts to protected cultural resources. By definition, this includes adverse effect as a result of direct, indirect, or cumulative effects. Thus, the BLM retains the authority at the APD stage to not approve proposed, future activities on the lease parcels that may affect cultural resources.

The BLM took a hard look at impacts to cultural resources in the September 2018 Lease Sale EA and found the analysis adequate for the December 2018 Lease Sale DNA.

**Protest Contention 7: The BLM failed to take a Hard Look at Impacts to Recreation in the Labyrinth Canyon Special Recreation Management Area (SRMA).**

**Protest Response 7:** Consideration of the Labyrinth Canyon SRMA has been added to the Interdisciplinary Checklist for the DNA. Upon review of the analysis of the SRMA in the Price Field Office RMP and the stipulations added to parcel 257, it was determined that the Class II VRM designation on parcel 257 is sufficient to protect the primitive recreation activities in the SRMA. In addition, the December 2017 Lease Sale EA was added to Section C of the DNA to

show that the potential impacts to the SRMA from oil and gas development had previously been adequately analyzed.

**Protest Contention 8: The BLM Violated NEPA’s Alternatives Requirement. The Lease Sale is Neither a Feature of, Nor Similar to an Alternative Analyzed in the NEPA Documents Upon which the BLM relies. The Range of Alternatives the BLM considered in the Price RMP is not Appropriate with Respect to the Proposed Lease Sale.**

**Protest Response 8:** SUWA contends that “the alternatives analyzed in a land use plan and the alternatives analyzed in an oil and gas lease sale are fundamentally different. The alternatives developed for the Price RMP informed the BLM’s decision regarding how to allocate resources across 2.5 million acres of federal public land. Price RMP at ES-1. It is a 30,000 foot level of analysis offering no insight into specific resource conflicts at the lease sale stage.” SUWA at 19.

In preparing a Resource Management Plan, the BLM does not randomly assign oil and gas stipulations. Instead, as exemplified by Map 25 of the Price RMP, four categories of leasing stipulations were designated during the planning process: (1) Standard; (2) Open to Minor Constraints; (3) No Surface Occupancy; and (4) Closed. The categories were determined by site-specific analysis in the underlying FEIS. The decision to lease parcels in any of the areas designated as open to leasing under the RMP is based on one or more alternatives in the RMP FEIS.

Second, SUWA contends that the DNA cannot rely on the RMP FEIS’s alternatives analysis because the RMP’s purpose and need statement is broader than the decision to make certain parcels available for a lease sale. SUWA’s contention is flawed because the BLM’s earlier decision that these parcels are suitable for leasing encapsulates the later decision to offer those parcels for lease.

**Protest Contention 9: The BLM did not respond to SUWA’s Suggested Alternatives provided in its scoping comments for the lease sale, nor consider them when preparing the DNA.**

**Protest Response 9:** SUWA also asserts that the BLM did not consider or respond to the three recommended alternatives it proposed during the scoping process, and the failure to respond is a violation of NEPA. The three recommended alternatives were: (1) “leasing outside of wilderness-caliber lands;” (2) “no-surface occupancy;” and (3) “phased development-leasing.” SUWA at 20. SUWA argues that these alternatives are consistent with the purpose and need of holding a lease sale, technically and economically feasible, and less impactful to resources.

The BLM is not required to respond to scoping comments. The BLM prepares a scoping report and determines if the comments raise issues that would determine what level of NEPA compliance document is required and resource issues to be considered in such document. SUWA’s proposed alternatives were not considered because they had previously been dismissed because they would have required an additional stipulation that is not currently allowed under the governing RMP.

As far as *considering* SUWA's suggested alternatives, they are identical to those submitted by SUWA for analysis in the EA the BLM prepared for the September 2018 Lease Sale. Those alternatives were considered and dismissed. There was nothing in SUWA's scoping comments supporting a need to reconsider them in connection with the December 2018 Lease Sale.

For the reasons set forth above, I have determined that offering the three protested parcels at the December 2018 Lease Sale was in compliance with all applicable laws, regulations, and policies. Accordingly, SUWA's protest to the inclusion of the three parcels in the December 2018 Lease Sale is dismissed.

This decision may be appealed to the Interior Board of Land Appeals, 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, and
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 Price Field Office (UTY02)