

# **BEATTY & WOZNIAK, P.C.**

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## **Energy Companies File Lawsuit in Federal Court Challenging Secretary Salazar and BLM's Unlawful Withdrawal of Lease Parcels from Utah BLM's December 2008 Oil and Gas Lease Sale**

(Denver) - On May 13, 2009, three energy companies filed a lawsuit in the U.S. District Court for the District of Utah against the U.S. Department of the Interior (Interior) and Bureau of Land Management (BLM). A copy of the complaint is available upon request.

Questar Exploration and Production Company, Impact Energy Resources, LLC, and Peak Royalty Holdings, LLC (collectively, the Companies or Plaintiffs) bring this suit to challenge Secretary of the Interior Ken Salazar's action and BLM's decision to retroactively withdraw lease parcels sold by BLM at its quarterly oil and gas lease sale held on December 19, 2008, in Salt Lake City, Utah.

Secretary Salazar cancelled the leases nearly a month after the Companies had already fully paid for the leases and BLM cashed their checks. BLM later refunded the monies. The Companies sought to resolve this matter administratively through an appeal to the Interior Board of Land Appeals (IBLA). However, the IBLA dismissed the Companies' appeal because BLM's decision withdrawing the lease parcels was approved by Secretary Salazar and thus, not available for review by the IBLA.

"We hope that this Complaint reveals the truth surrounding these lease parcels. We seek a constructive dialog with Secretary Salazar and BLM. We hope this dialog will result in the BLM reinstating the Companies' leases. More importantly, we hope to restore integrity to the BLM lease process" stated Jay B. Neese, Executive Vice President of Questar Exploration and Production Company.

BLM's decisions are contrary to the plain language of the Mineral Leasing Act, which provides that leases shall issue once the Companies fulfilled all required terms and conditions, and their payments were accepted. The Companies were the high bidders for 9 of the withdrawn leases, and timely paid for their leases, which BLM accepted. Therefore, Interior and BLM were statutorily and contractually obligated to issue the Companies' leases. Accordingly, the Companies believe they have been left with no other option but to file their claims with the federal court in Utah.

Rob Thompson, a Beatty & Wozniak attorney representing the three Plaintiffs said, "The companies plan to let the courts decide since the dismissal of the IBLA appeal has left them with no other option but to correct the record and secure issuance of the leases. The companies also have a vested interest in the long term viability of BLM's oil and gas leasing program and the integrity of the process."

The complaint includes relevant facts which the Secretary chose to disregard when he ordered BLM to withdraw the leases. The Secretary's decision, based on his public remarks, was premised on the view that the leases were in close proximity to National Parks. None of the Companies' 9 lease parcels are within 15 miles of a National Park.

Nor was the decision by BLM to offer the parcels a “last minute” rush to lease. The BLM, with input from other state and federal governmental agencies, counties, energy companies, environmental groups and the public at large, spent seven years completing the various federal Resource Management Plans prior to making the leases available for auction. Accordingly, the Companies assert BLM’s withdrawal was arbitrary and capricious under the federal Administrative Procedure Act.

The facts on the ground underscore the arbitrary nature of the withdrawal decision. “Every one of the lease parcels BLM pulled from the December 2008 Lease Sale is adjacent to existing valid oil and gas leases and in several instances are near or in the middle of producing natural gas fields. This story has not been told until now. The withdrawn lease parcels had been open for leasing for the last 30 years, and many of these parcels contained rights-of-way for roads, transmission lines, and pipelines,” stated Jay Neese of Questar.

At the request of the National Park Service, prior to the lease sale, BLM withdrew dozens of parcels where concerns were expressed regarding proximity to National Parks. “Even after those parcels were removed from consideration, environmental activist organizations succeeded in creating a controversy where none existed with respect to the remaining lease parcels. They misled Secretary Salazar. Unfortunately, Secretary Salazar acted on that misleading information, without first performing due diligence,” explained Bret Sumner, another attorney representing the Companies.

Secretary Salazar’s stated reasons for withdrawing the Lease Parcels are also contradicted by BLM’s extensive environmental analyses performed in promulgating the applicable Resource Management Plans which kept these lands open for leasing, as well as BLM’s decision to continue with the issuance of 39 other lease parcels offered and sold at the December 2008 Lease Sale. Some of the 39 leases that BLM did not withdraw are adjacent to the withdrawn lease parcels, other leases that were not withdrawn are closer to National Parks than the withdrawn lease parcels. These factual contradictions further underscore the arbitrary and capricious nature of Interior and BLM’s actions.

Interior also claims that its decision to withdraw the leases was supported by the Temporary Restraining Order issued by Judge Urbina in a separate proceeding in federal court in the District of Columbia. The court's order required no such action. The short 5 page order temporarily prohibited Interior from issuing the 77 leases, but required BLM to take no further action (including withdrawing the leases). In fact, Judge Urbina specifically requested additional briefing on the issues within 6 days of his order, but Secretary Salazar refused to let the court process run its course. Moreover, the issues raised in the temporary order touched upon all of the lease parcels from the sale, yet Secretary Salazar did not withdraw the other 39 leases sold by BLM at the December Sale.

In addition to seeking to ensure regulatory certainty in BLM’s existing and future oil and gas lease sale process, “the Companies have an obligation to their investors to protect and maintain their legal rights to these unlawfully withdrawn leases,” said Jay Neese of Questar.

Maps of the lease parcels can be accessed by clicking on the links below.

[Vernal Area Map](#)

[Vernal-Price Area Map](#)

[Moab Area Map](#)

**About Beatty & Wozniak, P.C.**

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