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Steven Haydon, Forest Minerals Staff
Bridger-Teton National Forest
P.O. Box 1888
Jackson, WY 83001-1888

Re: Supplemental EIS regarding oil and gas leasing of 44,720 acres in the Big Piney Ranger District

Dear Steve,

I am aware that Stanley Energy and its attorneys have requested meetings with the Forest Service, the BLM, the state of Wyoming and Arcadis, the third party contractor drafting the leasing EIS for the 44,720 acres—and that the Forest Service has granted this request and committed to a schedule of bi-monthly meetings. To date, two meetings have already occurred and I am aware that two more meetings are scheduled by the April 28th scoping deadline. This is highly unorthodox and I write to express my objection to this arrangement and request an immediate remedy to what can only be perceived as an attempt by this one company to unduly influence the EIS process in its favor.

Unlike an EIS process for an APD where one would expect some close consultation between the lead agency and the leaseholder, this situation is different. First, this is a leasing EIS and the Forest Service has the obligation to consider all alternatives objectively—including the no action alternative. This is should not be a process in which the particulars of various analyses are determined in order to reach one company's desired end goal. Second, unlike an APD process where there exists a leaseholder with valid rights, Stanley Energy is only a high bidder within a series of improperly offered oil and gas lease sales. Although leases from two of the four lease sales were issued, these leases are in a contested status and can be cancelled if the Forest Service determines this is the proper course of action. Thus, the high bidders, including Stanley Energy, should be positioned no differently from other members of the public.

While Stanley Energy can submit scoping comments and offer suggestions to the agencies, as could any member of the public, this company should not be granted special, regularly scheduled meetings in which the third-party contractor is present. Even in an EIS process for an APD, the leaseholder should not be in direct contact with the third party contractor in order to ensure that there is no conflict of interest on the part of the contractor and that the independent judgment of the agency remains intact. See 40 C.F.R. § 1506.5. No other entities—and in particular no other entities working on behalf of the

public interest—have been granted this type of special access to the EIS drafting process. Indeed, the Forest Service isn't even hosting public scoping meetings, let alone giving the public the type of frequent and behind-the-scenes access and information to the EIS process it has granted Stanley Energy.

It is uncommon that an agency is in a situation in which it must prepare a pre-leasing NEPA analysis after it offers the lease parcels for sale. It is for this reason that we objected to the remand of our appeals without the cancellation of the leases at issue here. We were concerned that as long as the leases remained in place, the NEPA process would be nothing more than a paperwork exercise to justify a predetermined result, something NEPA's implementing regulations prohibit. See 40 C.F.R. 1502.5 (stating that an EIS should not be used "to rationalize or justify decisions already made."). We urged the agencies to cancel the leases prior to undertaking a leasing environmental analysis so that the decision could be made on a "clean slate." Not surprisingly, the BLM and Stanley Energy objected to our request to cancel the leases and made assurances to the IBLA that objective pre-leasing NEPA analysis could be prepared without lease cancellation. Moreover, they claimed that the issue of bias—or the potential that the agencies would be unduly influenced by the presence and involvement of the high-bidding companies—was not yet ripe.

That Stanley Energy will have had four meetings with the Forest Service, BLM, the state of Wyoming and Arcadis compared to no meetings the public will have had with these same entities is unacceptable. It is an indication that our concerns regarding the appearance of impropriety and the potential that high-bidding companies like Stanley Energy would attempt to wield improper influence over this process were justified. It is also clear that this issue is now timely.

In order to remedy this situation, the Forest Service should open these bi-monthly meetings to conservation organizations and other representatives of the public interest. In the alternative, it should agree to offer a similar number of meetings where these same public interest representatives can also have the opportunity to meet with the Forest Service, the BLM, the state of Wyoming and the third-party contractor. If it does not make these concessions, it should immediately cease to allow Stanley Energy and/or its attorneys access to the inner-workings of the EIS drafting process and to the third-party EIS contractor.

I appreciate your prompt response to my concerns and look forward to hearing from you.

Sincerely,



Lisa McGee

Cc: Kniffy Hamilton, BTNF Supervisor
Harv Forsgren, Intermountain Regional Forester
Don Simpson, BLM Acting State Director
Janet Kurman, BLM NEPA Specialist
Joyel Dhieux, EPA NEPA Program
Dave Freudenthal, Governor