

STONE & WOLF, LLC

October 15, 2001

VIA E-MAIL AND FOLLOWED BY U.S. MAIL

Mr. V. A. Stephens
Energy Project Streamlining Task Force
Council on Environmental Quality
Executive Office of the President
722 Jackson Place, NW
Washington, D.C. 20503

RE: **CEQ Task Force**
Expedite USA Energy Related Projects
Focus Ranch Federal Unit Area
Routt County, Colorado

Dear Mr. Stephens:

Stone & Wolf, LLC, ("Stone & Wolf") brings to your attention a serious and damaging breakdown in the approval process of a **RIGHT-OF-WAY** used by the Bureau of Land Management ("BLM"). This established **RIGHT-OF-WAY** provides Stone & Wolf access to their drilling operations within the Focus Ranch Unit. Through the efforts of the current surface owner as well as a crucial lack of support from the BLM field office, the Interior Board of Land Appeals suspended our use of this **RIGHT-OF-WAY**. Consequently, a lawsuit has been filed in the United States District Court for the District of Colorado. This lawsuit could have been avoided through the application of good sense and reasonable conduct by the offices of the Colorado State BLM. Following are Stone & Wolf's concerns in detail.

Stone & Wolf, an independent oil and gas exploration company, is the operator of the Focus Ranch Federal Exploratory Unit in Routt County, Colorado. The Focus Ranch Unit was approved on August 30, 1999, by the BLM (Reservoir Management Team, Colorado State Office, Lakewood, Colorado) and assigned Unit Number COC63212X. The unit encompasses 25,372.97 acres, and **federal leases within the unit comprise 74.32% of all the unitized lands**. This area has had about 9-10 wells drilled within the unit boundaries prior to formation of the Focus Ranch Unit, and the aforementioned **RIGHT-OF-WAY** accessed all of these wells.

In 1999, Stone & Wolf drilled the first obligation well located in the northern portion of the Focus Ranch Unit; the result was a dry hole. The next obligation well to be drilled was proposed as a twin to a test well drilled previously by Marathon Oil Company in August of 1989. This location, next to the Marathon deep test, has geologic significance that is key to the economic success of the entire Federal Unit. The regional BLM field office (Little Snake Field Office) **granted** Stone & Wolf use of an existing **RIGHT-OF-WAY** into the location, principally for the purpose of staking and permitting this well. Three Forks, the surface owner where the **RIGHT-OF-WAY** exists, denied us any access and refused to negotiate

a surface damage agreement. One of the attorneys for the surface owner, Richard H. Bate, appealed the use of the **RIGHT-OF-WAY** granted by the BLM based on claims that the BLM had not correctly performed the necessary evaluation prior to granting Stone & Wolf the use of this **RIGHT-OF-WAY** (i.e. General Order One Approval). The regional BLM office did not substantiate nor did they offer any support to the Interior Board of Land Appeals *for their decision* to grant Stone & Wolf the use of this **RIGHT-OF-WAY**. With no response from the regional BLM office, the Interior Board of Land Appeals Judge erred on the side of any potential damage and granted a stay regarding the use of this **RIGHT-OF-WAY**.

Three Forks states that, prior to granting the easement, the BLM should have done the NEPA environmental work. However, the NEPA evaluation is always completed during the permitting process. While Three Forks makes claims of environmental work they feel should be required, they chemically sprayed THOUSANDS of offsetting acreage to eradicate all the sagebrush *without* any environmental assessment.

Three Forks claims that Stone & Wolf could use alternate access routes. However, any other routes would require new road construction and possibly bridge construction through extremely difficult terrain with forested areas. Since the BLM has an easement, it would be more reasonable to use the *existing road* to cross mildly undulating terrain to a location **previously used** in drilling a well. (Please see the attached pictures of the area in question.) We believe the public is best served using an existing access route that is the least intrusive and requires minimal construction.

Three Forks is not a garden-variety surface owner. Three Forks purchased the property in question (*that included very few mineral rights*) for \$30 million in 1999 in apparent ignorance of the existing BLM easement over its land; this easement has been used for decades for mineral exploration.

Three Forks currently operates a for-profit hunting and fishing reserve in which it invites hunters to "harvest" the indigenous elk, antelope and mule deer at rates over \$5,000 per package. (See www.threeforksranch.com) A large quantity of the animal habitat is comprised of public or BLM land accessible mainly through Three Forks' surface. Three Forks has erected extensive administration and lodge facilities on their site. Their continued efforts to thwart Stone & Wolf's legal right to develop its mineral and gas interests in the Focus Ranch Unit are not undertaken as "protectors of the environment". Its motives are purely commercial in nature. By limiting access, they have created their own private game reserve on public lands.

Stone & Wolf properly notified all parties of its intent to survey and stake the next obligation well, Gibraltar Peaks Federal #1-12H (the old Marathon site), located within Federal Lease COC-59203. Stone & Wolf also forwarded to Three Forks a new surface use agreement between Stone & Wolf and Three Forks along with copies of two different surface use agreements (previously executed by other surface owners) covering wells drilled in their area within the last year. However, there was no response from Three Forks. **Stone & Wolf was then informed by the BLM that it was inappropriate to conduct the pre-drill onsite inspection in the absence of an executed surface use agreement or a court order stating that Stone & Wolf has the right to enter the referenced unit.** The BLM offered to facilitate a resolution and meet with both parties; Stone & Wolf agreed to this offer in writing and stated its willingness to be available at any time. Again, there has been no response by Three Forks. Stone & Wolf requested the BLM to re-grant the use of its existing **RIGHT-OF-WAY** across the subject lands, but instead received a response from John E. Husband, Field Manager of Little Snake Field Office, stating, **"I am returning your letter dated October 16, 2000. We are unable to work on the easement issue, due to**

the matter being under appeal." Stone & Wolf has served Civil Action No. 00-M-1130 in the United States District Court for the District of Colorado naming Three Forks as Defendant. Depositions are concluded and pretrial scheduling is underway; a trial date has not been set.

In the meantime, provisions under Section 25 (Unavoidable Delay) of the Focus Ranch Unit Agreement allow suspension of operations when matters beyond the control of the Unit Operator (Stone & Wolf) prevent the drilling and/or operations of additional obligations within the unit. Stone & Wolf was granted a suspension of Focus Ranch Unit agreement obligations dated September 18, 2000. Although Three Forks is not a party to the Unit Agreement and *only owns a portion* of the surface estate of the Focus Ranch Unit, Richard H. Bate (Three Fork's attorney) requested a State Director Review (SDR). The State Director upheld the suspension and Mr. Bate then filed yet another appeal to the Interior Board of Land Appeals requesting the Federal Unit be suspended.

Additionally, in September of 2000, Stone & Wolf as Unit Operator of the Focus Ranch Unit made application to the Little Snake Field Office for Suspension of Operations and Production for all the Federal leases within this unit. As a result of being obstructed from developing any of the 27 Federal leases within the unit, it only seems fair that this request to suspend annual delay rentals and expiring terms should be considered. However, to date, we have not received a response.

As a result of these appeals, objections, limits and restrictions, **Stone & Wolf is obstructed from developing the subject leases** by the inability to conduct actual drilling operations [42 CFR 3100.0-5 (g)] within the unit area due to circumstances beyond their control. Through the course of all the correspondence, applications, responses and depositions, it appears quite clear that Three Forks does not want anyone in this area (both private and **public** lands) in part because they use it for commercial hunting business and other **personal pursuits**. It seems an elk killed for profit is preferable over one disturbed by limited drilling operations.

It is unjust that a surface owner of a portion of a Federal Unit and not a party to the Unit can STOP all activity to drill wells (so far two drilling seasons) by appealing every decision made by the BLM to the Interior Board of Land Appeals. This tactic is preventing a potentially large resource of the United States from being developed.

In July of 2001, the attorneys for Stone & Wolf took the depositions of the representatives of Three Forks. In those depositions, Three Forks made it abundantly clear that it would not, under any circumstances, execute a surface use agreement with Stone & Wolf. Nonetheless, Three Forks continues to engage in substantial construction efforts in an otherwise "pristine" wilderness area to construct facilities necessary to conduct a profitable private hunting business. The situation currently stands as follows:

1. There is an existing **RIGHT-OF-WAY** expressly reserved to the BLM for purpose of conducting exploratory and drilling operations;
2. Through the efforts of Three Forks, the BLM has taken the unprecedented step of withdrawing the prior approval of the right of a Unit Operator, Stone & Wolf, to access the easement;

3. To our detriment, surface access as required by the Little Snake Field Office [*being a part of the Application for Permit to Drill (APD)*], has not been accomplished due to the unwillingness of the surface owner, Three Forks Ranch, to negotiate and/or reach an agreement; and

4. Stone & Wolf has been forced to take the unusual step of obtaining legal declaration from the United States District Court as to its rights to access Three Forks for the purpose of accessing a drill site located off of Three Forks' property.

For unwarranted reasons, the BLM has elected not to address the easement access issue on the basis that it must wait for the decision of the United States District Court. What the BLM misunderstands is that the BLM is vested with the jurisdiction to decide that very issue. There is nothing complicated or unusual about it. A **RIGHT-OF-WAY** exists through Three Forks' land. That **RIGHT-OF-WAY** has been reserved to the BLM, and the BLM has granted Stone & Wolf the right to use it. Such approval does not require the intervention of the United States District Court. Nonetheless, Stone & Wolf has been forced to seek judicial relief, and in the process, has been denied **TWO FULL SEASONS** of development. Furthermore, many of the aforementioned federal leases are subject to drilling restrictions whereby no drilling will be allowed in the winter months.

As a result, Stone & Wolf – as the Unit Operator of the Focus Ranch Unit – cannot drill within the unit due to the unprecedented and unusual decisions of the BLM apparently in reaction to the hostile behavior of a surface owner – Three Forks. While such disputes are not unusual, the BLM's procedure in addressing the problem sets a precedent that, if followed in the future, will only inhibit the ability of responsible and prudent operators, such as Stone & Wolf, from meeting its obligations of unit agreements. It is a situation that cannot be ignored.

Stone & Wolf hereby respectfully requests that a CEQ Task Force review this matter as well as the *complete lack of support* given by the BLM field office. It is and always has been our intent to perform all drilling and development in a very environmentally safe and prudent manner.

If additional information is required, please advise. Thank you, in advance, for your consideration.

Very truly yours,

STONE & WOLF, LLC

Mike J. Coulter
Landman

Enclosures

Cc: U.S. Senator Craig Thomas
U.S. Senator Mike Enzi
U.S. Senator Wayne Allard
U.S. Senator Ben Nighthorse Campbell
U.S. Representative Barbara Cubin
Mr. Victor Morales, Clanahan Tanner Downing and Knowlton, P.C.
Mr. Jerry Groner, Clayton Williams Energy
Mr. Charlie Williams
Mr. Steve Chamberlain, Energy Investments, Inc.
Mr. Walter F. Brown, Jr.