

## **STIPULATION AND AGREEMENT**

This Stipulation and Agreement is made and entered into this \_\_\_\_ day of May, 2006, among the Utah Division of Forestry, Fire and State Lands (Division), [FRIENDS of](#) Great Salt Lake, National Audubon Society, Great Salt Lake Audubon Society, and the Utah Chapter of the Sierra Club (FRIENDS), and MAB Resources, LLC and W. G. Boonenberg (Lessees). The purpose of this Stipulation and Agreement is to set forth the terms and conditions of an agreed upon resolution between the parties regarding the following Oil and Gas lease offerings: West Rozel II, III, IV, V, and VI.

### **INTRODUCTORY PROVISIONS**

1. Division announced leasing possibilities of certain sections of the Great Salt Lake in various stages noted as West Rozel II, III, IV, V, and VI. These offerings and the areas of the Great Salt Lake affected are noted in Exhibit "A", attached hereto and made a part hereof. A legal description of West Rozel II, III, IV, V, and VI is attached hereto and made a part hereof as Exhibit "B".
2. Lessees responded to all offerings, being the highest bidder on all tracts noted in Exhibit A except for two tracts, 21 and 22, in West Rozel VI.
3. A Request for Agency Action and Petition for Agency Declaratory Order was filed with the Division by FRIENDS challenging each offering noted on Exhibit A.
4. Leases were consummated for West Rozel II, III, and IV and Lessees had executed, but the Division has not signed, leases for West Rozel V prior to FRIENDS filing its challenges. These leases are noted as lease numbers 20000012-13, 20000022, and 20000027-49.
5. West Rozel VI has no current leases executed by either the Division or Lessees, pending

resolution of this matter, although Lessees have submitted moneys to the Division currently held in escrow.

6. In order to resolve challenges and to avoid further delay, expense and disagreement regarding the offerings and their status, the parties agree and stipulate, without admitting any substantive or procedural failings in either the challenge to the offerings or the manner in which the offerings were made or handled, that the following will be the full and complete resolution to this matter:

NOW THEREFORE, based upon the above, the parties agree as follows:

1. This Stipulation and Agreement is limited to the leasing of certain tracts of the Great Salt Lake from the Division and in no way is intended to affect the rights of any party before any other Division or Department of the State of Utah or the United States Government in proceedings before it.
2. Upon the signing of this document, FRIENDS will withdraw in writing all challenges and objections to existing leases with prejudice that have been signed and executed prior to the filing of the Petitions and Request for West Rozel II, III, and IV. The parties affirm the validity of these leases.
3. FRIENDS will further withdraw in writing all challenges and objections to West Rozel V, tracts 1-11, with prejudice and will not object to the Division Director executing the leases that have already been executed by the Lessees but which have been pending as a result of FRIENDS' actions.
4. FRIENDS also agrees to withdraw in writing all challenges and objections to the leasing of tracts 21 and 22 of West Rozel VI in favor of Turner Petroleum with prejudice.

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5. FRIENDS agrees not to initiate, support, intervene in, or otherwise undertake any further challenges of the Leases executed and signed by Lessees and Division for West Rozel II, III, IV, and V.
6. FRIENDS expressly reserves its right to comment on and otherwise take advantage of any and all public processes or adjudications provided by Utah and/or federal law and regulation should any oil, gas and/or hydrocarbon exploration, development or other activity be proposed for any parcel in West Rozel II, III, IV, V, or VI before the appropriate state or federal agency.
7. All parties agree that tracts 1-20 and 23-52 of West Rozel VI, as shown on Exhibit A, shall be held in abeyance and unsigned pending the review of the Great Salt Lake Mineral Leasing Plan, of June 27, 1996. The offering's award shall be held in abeyance in favor of W. G. Boonenberg. If any West Rozel VI rights or interests are assigned during the period of abeyance, this Stipulation and Agreement binds the assignee(s) as if it/they were one of the parties to this Stipulation and Agreement.
8. During the review of the Great Salt Lake Mineral Leasing Plan, all tracts in West Rozel VI held in abeyance will be frozen in a suspended state and shall not be subject to leasing or re-offering.
9. The Division will retain the funds submitted by Lessees for the leasing of West Rozel VI in escrow until the completion of its review of the Great Salt Lake Mineral Leasing Plan as further discussed in this Stipulation and Agreement.
10. During the period of review of the Great Salt Lake Mineral Leasing Plan, when the leasing process for West Rozel VI is held in abeyance, all rights and obligations of the Lessees under

the leasing process shall be suspended. The Division will require nothing further of Lessees until a determination is made as to the applicability of a reconsidered and reissued Great Salt Lake Mineral Leasing Plan (“MLP”).

11. After the finalization and implementation of the MLP, FRIENDS will withdraw in writing all challenges and objections to the West Rozel VI leases held in abeyance, and the process of leasing tracts 1-20 and 23-52 still subject to leasing shall continue, including the signing of leases for the tracts agreed upon as provided for under the Stipulation and Agreement. The ten-year primary term of the leases so executed shall not begin to run until the MLP review is complete and the leases are executed.
12. During the pendency of the review process and until leases are executed, Lessees have no obligation to pay any annual rental or other fee. Upon the execution of leases for tracts in West Rozel VI, the funds held in Escrow by the Division for those tracts may be released to the Division in accordance with applicable laws and regulations as the first year lease payment.
13. The Division shall reconsider and reissue the Great Salt Lake Mineral Leasing Plan of June 27, 1996 as part of the Division's Great Salt Lake planning effort. This review shall consist of generating, inviting, accepting and considering information, input, suggestions and proposals from the public and state and federal agencies sufficient to determine the impacts and appropriateness of mineral leasing and development of the bed of Great Salt Lake under Utah law and regulation. At a minimum, the Division will determine if leasing and development of any specific area of the bed of Great Salt Lake open to leasing interferes

with or serves the public trust, and will balance the benefit or economic justification of the potential development with the potential harm to public trust resources, recognizing that the permitted use cannot interfere with these resources. In this planning effort, the Division shall reassess, based on all new and existing information and analysis, including that submitted by the public or any agency or gathered by the Division, whether any areas/lands comprising the bed of Great Salt Lake currently open for mineral leasing and development, including oil, gas and/or hydrocarbon development, should remain subject to leasing and development, applying, at least, the Division's management obligations as set forth by the Utah Constitution and Utah law and rule. The Division shall make a finding based on this analysis and issue a signed MLP to the public. At least one public hearing will be held as part of this planning process. FRIENDS and Lessees are invited to and may participate as they deem appropriate in providing information, participating in any public hearings held, and in making suggestions and proposals during the review.

14. The Division projects that the MLP review will take approximately two years based on available personnel needs, the finalization of the Utah Lake and Bear Lake Management Plans and the type of input received and concerns raised. While the Division will attempt as its goal to complete the process in that two-year time frame, the Division will not be liable to any party for failure to complete the process by a specific date. Therefore, all parties agree that the Division has the flexibility to proceed as it can to complete the review process and issue a finalized plan.

15. The MLP review shall include the RDCC process and opportunities for public input and comment during both the scoping and the draft phases. At the conclusion of the process, the

Division Director shall issue a formal Notice of Adoption of the MLP.

16. Lessees and FRIENDS expressly reserve their right to seek review of the MLP, including any decision made in the MLP in any way relative to the West Rozel VI leases, as provided by Utah and/or federal law, rule, and/or regulation.
17. Following the review and adoption of the MLP, the Lessees shall have the right to modify or withdraw their bids on any or all of the tracts affected by the MLP and subject to this Stipulation and Agreement and held in abeyance under West Rozel VI in accordance with the MLP. If any of the tracts of West Rozel VI, 1-20 and 23-52, are withdrawn from leasing by the Division pursuant to the MLP, or the Lessees are otherwise prevented from drilling, developing or operating such leases as a result of the MLP, the Lessees shall relinquish the affected tracts or partial tracts bringing said tracts into compliance with the MLP.
18. In the event that any tract under West Rozel VI is withdrawn in whole or in part from leasing, the Division shall refund to the Lessees the funds held in the Escrow Account tendered to it for the lease of said tracts. If portions of tracts are affected and withdrawn from leasing by the Division pursuant to the MLP, or are relinquished by the Lessees, the amount paid on affected tracts shall be prorated to represent the amount of tract that remains leased, and the balance shall be refunded to Lessees.
19. If, in challenging the MLP, either of the following occurs:
  - a. FRIENDS files a petition for consistency review of the MLP pursuant to Utah Admin. Code R652-9-100, *et seq.* (2006) and the Executive Director, in accordance with Utah Admin. Code R652-9-500(1), declines to review the petition; or

- b. FRIENDS files a challenge to the MLP and the court and/or administrative body denies review of the MLP on the grounds that the controversy is not ripe for judicial review and/or is nonjusticiable in a way consistent with the decision in *Ohio Forestry Assn., Inc. v. Sierra Club*, 523 U.S. 726 (1998);

FRIENDS specifically reserves the right to challenge the execution and/or issuance of the West Rozel VI leases directly, but only with the occurrence of either of the events described in subparagraph a. and b. above will FRIENDS protest, challenge, or adjudicate the issuance of the West Rozel VI leases directly, although it may still challenge the MLP as described in paragraph 16. In the event that FRIENDS proceeds as provided in this paragraph (paragraph 19), FRIENDS agrees not to seek a stay of the execution of the West Rozel VI leases. In recognition of the statute of limits relative to the approval and/or execution of the West Rozel VI leases, FRIENDS may file a direct challenge to the West Rozel VI leases immediately after they are approved and/or executed, but agrees that such direct challenge will be held in abeyance. Only if event a. or b. of this paragraph (paragraph 19) occurs will FRIENDS proceed with such direct challenge, otherwise FRIENDS will withdraw such direct challenge.

20. FRIENDS also specifically reserves the right to challenge any subsequent lease offerings, executions and/or issuances for or of any parcels or areas of the bed of Great Salt Lake.
21. The Division agrees to establish a “notice list” for individuals or organizations who would desire notice of upcoming Division projects on sovereign land. Those individuals or parties who ask to be placed on said list will be provided public announcement and notice of such

projects so that comment can be made before the projected actions take place.

22. The Division further agrees to provide copies of the State Land's Advisory Council minutes to those individuals or organizations who desire them.
23. The Division will also work with the RDCC to encourage a more user-friendly process and to provide better notification to the public and those who are interested in matters that go before it and to provide better opportunities for these interested parties to comment to the RDCC.
24. The Division also agrees that after an initial determination has been made as to what project descriptions will be sent to the RDCC, it will provide the project descriptions to interested parties who are on the notice list at least two weeks prior to submitting the proposals to the RDCC. This provides the public, including individuals, organizations and parties, the opportunity to review and make comments to the Division prior to the beginning of the time period provided by the RDCC review process.
25. The Division will accept comment and input through the RDCC process on any matter that goes before the RDCC, but organizations, individuals, and others may submit comments directly to the Division or directly to RDCC, including its participating agencies.
26. This Stipulation and Agreement sets forth the full and complete understanding of the parties hereto as of the date hereof relating to the subject matter.
27. This Stipulation and Agreement shall be construed according to the laws of the State of Utah.
28. The invalidity or unenforceability of any particular provision of this Stipulation and Agreement will not affect the other provisions hereof or thereof.
29. All notices, requests, demands, directions and other communications concerning this

Stipulation and Agreement shall be in writing and shall be mailed, delivered personally, or sent by facsimile to the applicable party at the address of such party set forth below. Each party may modify the address and person to whom notice is sent by notifying the other parties to this Stipulation and Agreement in writing:

Executive Director  
Utah Division of Forestry, Fire and State Lands  
1594 West North Temple, Suite 3520  
P.O. Box 145703  
Salt Lake City, UT 84114-5703

FRIENDS OF GREAT SALT LAKE  
National Audubon Society  
Great Salt Lake Audubon Society  
Utah Chapter of the Sierra Club

**[Place names and addresses here]**

MAB Resources LLC  
Attention: Garry Lavold  
1601 Blake Street, Suite 505  
Denver, Colorado 80202-1329  
Telephone: (303) 572-8900  
Facsimile: (303) 572-8927

and

David Brody  
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Patton Boggs LLP  
1660 Lincoln Street, Suite 1900  
Denver, Colorado 80264  
Telephone: (303) 894-6185  
Facsimile: (303-894-9239

W. G. Boonenberg  
1801 Broadway, Suite 1440  
Denver, CO 80202-3842  
Telephone: (303) 573-7080  
Facsimile: (303) 663-6573

30. This Stipulation and Agreement, and all the right, title, interest, requirements, covenants,

obligations, terms and conditions set forth herein, shall be binding upon, and inure to the benefit of, the parties hereto and their respective partners, parties of interest, beneficiaries, heirs, representatives, trustees, and permitted successors and assigns.

AGREED AND ACCEPTED ON THE DATE SET FORTH ABOVE:

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Joro Walker, Esq.  
Director Utah Office

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A. Joel Frandsen  
Division Director  
Utah Division of Forestry, Fire and State  
Lands

Attorney for:  
FRIENDS OF THE GREAT SALT LAKE  
NATIONAL AUDUBON SOCIETY  
GREAT SALT LAKE AUDUBON SOCIETY  
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