

Wayne Michael Lottinville, CFA
2135 Jefferson Street, Eugene, Oregon 97405

April 16, 2012

William H. Stallings, Chief
Transportation, Energy and Agriculture Section
Antitrust Division
U.S. Department of Justice
450 Fifth Street, N.W., Suite 8000
Washington, DC 20530

Subject: Civil Action No. No. 12-cv-00395-RPM-MEH
regarding Gunnison Energy Company and SG Interests

Dear Mr. Stallings:

I am writing to you to voice my great disappointment in, and objection to, the proposed Final Judgment regarding the above civil antitrust action to obtain equitable and legal remedies against the defendants, and to ask you set aside this proposed settlement and to seek a far harsher judgment. I will assume that you are familiar with this proceeding and will therefore not reiterate the details here. I would, however, like to make a few points that cause me great concern regarding this proposed settlement.

Under terms of the agreement, Gunnison Energy Company and SG Interests will each pay \$275,000 without admitting to any wrongdoing. Yet the Department of Justice apparently believes, as demonstrated in bringing these charges, that wrongs were done, including serious violations of the Sherman Act and the Clayton Act, and that: "the United States received substantially less revenue from the sale of leases than it would have had SGI and GEC competed at the auctions."

First, to address the issue of not admitting to wrongdoing, the days of engaging in such vacuous settlements must come to an end, and today is a great time to end it. It has been demonstrated repeatedly, perhaps more famously by settlements with Wall Street defendants charged with financial fraud and related misdealing, that agreements that fail to assign wrongdoing to appropriate parties do little to alleviate the ongoing flood of fraud and abuse against the United States and the citizens who comprise it. The proposed settlement does not serve to deter further actions of this kind by the defendants. The continuation of this practice, by the Department of Justice or any other governmental agency, is itself a wrongdoing that must be corrected.

Next, in Section III, Explanation of the Proposed Final Judgment, the Department of Justice states that:

The payment of damages to the United States reflects the likely additional bid revenue that the BLM would have received had SGI and GEC acted as independent competitors at the February and May 2005 auctions. Requiring GEC and SGI to pay damages in these circumstances will protect the public interest by deterring them and other parties from entering into similar anticompetitive agreements in the future.

William H. Stallings
April 16, 2012
Page 2

The above explanation defies logic. If the damages assessed merely reflect the likely additional bid that the BLM would have received, where is the deterrent that will protect the public interest? If I am a habitual thief, and the worst that will happen to me if I get caught is that I will be required to pay a fair market price for my plunder, why would I bother to stop thieving? If I continue thieving, I will at times make off with my plunder at a much reduced price. And when caught, I will only have to pay a fair price. Overall, not a bad deal for the thief, but a terrible deal for those stolen from—in this case, the United States and the citizens thereof.

Thirdly, I would like to compare this proposed settlement to a prior Department of Justice action to suggest the disproportionate nature of one or both, particularly if one entertains any idea of equity under the law. That prior action is one regarding Tim DeChristopher, charged and convicted with disrupting a BLM gas lease sale as a protest, but not for monetary gain. In that case the Department of Justice asked for and obtained a hefty fine and jail time. DeChristopher is now serving two years in federal prison. This unequal application of justice undermines respect for the law and is a grave disservice to the United States and its citizens.

In sum, Mr. Stallings, I am asking, for the above reasons and others not presented here, that you and your agency, in fairness and in service to the just interests of the United States and its citizenry, to set aside this proposed settlement and seek a far harsher judgment. Should we consider as a standard the outcome of the case regarding Tim DeChristopher, a man who committed a far less serious crime than that which is the subject of this letter, then the executives of Gunnison Energy Company and SG Interests—who, due to their long and active industry experience, presumably hold a much higher level of understanding about laws regarding the bidding process than does DeChristopher, and who, unlike DeChristopher, are charged with violating the law for monetary gain—deserve far harsher penalties than DeChristopher received. If the DeChristopher sentence is appropriate, then you cannot rest until the executives of Gunnison Energy Company and SG Interests are convicted, lose their leases, and serve even longer sentences in prison than DeChristopher.

After DeChristopher's conviction, according to a report in the July 27, 2011, edition of the *Los Angeles Times*: "federal prosecutors asked that he be sentenced to a 'significant prison term' to 'promote respect for the law.' They maintained that he cost oil firms hundreds of thousands of dollars in higher bids for other parcels." The executives of Gunnison Energy Company and SG Interests also need to "respect the law," and allegedly, they were engaged in actions that would have cost the United States and its citizens "hundreds of thousands of dollars." If the Department of Justice's claims in this proceeding have any merit, these executives are even more culpable than DeChristopher and deserve harsher sentences.

Regards,

A handwritten signature in black ink, appearing to read "Wayne Lottinville". The signature is stylized and somewhat cursive, with a large initial "W" and "L".

Wayne Lottinville