

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-00395-RPM-MEH

UNITED STATES OF AMERICA

Plaintiff,

v.

SG INTERESTS I, LTD.,
SG INTERESTS VII, LTD., and
GUNNISON ENERGY CORPORATION

Defendants.

**STIPULATION BY THE UNITED STATES AND SG INTERESTS I, SG INTERESTS VII
AND GUNNISON ENERGY CORPORATION**

It is hereby stipulated by and between the undersigned parties that:

1. The Court has jurisdiction over the subject matter of this action and over Defendants Gunnison Energy Corporation (“GEC”), SG Interests I, Ltd. and SG Interests VII, Ltd. (collectively “SGI”); SGI and GEC waive service of summons on the Complaint; and venue is proper in the District of Colorado.
2. A proposed Final Judgment in the form attached hereto as Exhibit A may be filed with this court by the United States and may be entered by the Court, upon the motion of any party or upon the Court’s own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, and without further notice to any party or other proceedings, provided that Plaintiff

has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on SGI and GEC by filing that notice with the Court. Defendants agree to arrange, at their expense, publication as quickly as possible of the newspaper notice required by the APPA. The publication shall be arranged no later than five (5) calendar days after Defendants' receipt from the United States of the text of the notice and the identity of the newspaper within which the publication shall be made. Defendants shall promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged, and (2) the certification of the publication prepared by the newspaper within which the notice was published.

3. SGI and GEC represent that the payment ordered in the proposed Final Judgment can and will be made, and that SGI and GEC will later raise no claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.
4. The entry of the Final Judgment in accordance with this Stipulation settles any and all antitrust claims of the United States against SGI and GEC arising from the specific events giving rise to the allegations described in the Complaint. This Stipulation does not settle any antitrust claims of the United States against SGI and GEC arising from their acquisition and operation of the Ragged Mountain pipeline.
5. In the event that the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall become null and void and shall be of no effect

whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated this 14th day of February 2012.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

FOR DEFENDANTS SG INTERESTS I, LTD. AND SG INTERESTS VII, LTD.

s/ Sarah L. Wagner

Sarah L. Wagner
U.S. Department of Justice
Antitrust Division
Transportation, Energy &
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s/ L. Poe Leggette

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FOR DEFENDANT GUNNISON ENERGY CORPORATION

s/ Timothy R. Beyer

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 12-cv-00395-RPM-MEH

UNITED STATES OF AMERICA

Plaintiff,

v.

SG INTERESTS I, LTD.,
SG INTERESTS VII, LTD., and
GUNNISON ENERGY CORPORATION

Defendants.

FINAL JUDGMENT

WHEREAS Plaintiff, United States of America, filed its Complaint alleging that Defendants Gunnison Energy Corporation (“GEC”) and SG Interests I, Ltd. and SG Interests VII, Ltd. (collectively “SGI”) violated Section 1 of the Sherman Act, 15 U.S.C. §1, and Plaintiff and Defendants, through their respective attorneys, have consented to the entry of this Final Judgment without trial or final adjudication of any issue of fact or law, for settlement purposes only, and without this Final Judgment constituting any evidence against or an admission by GEC or SGI with respect to any allegation contained in the Complaint.

NOW, THEREFORE, before the taking of any testimony and without trial or final adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction of the subject matter of this action and each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted to the United States against GEC and SGI under Section 1 of the Sherman Act, 15 U.S.C. §1.

II. APPLICABILITY

This Final Judgment applies to GEC and SGI and to all other persons in active concert or participation with any of them who have received actual notice of this Final Judgment by personal service or otherwise.

III. PAYMENT

GEC and SGI shall each pay to the United States within ten (10) days of the entry of this Final Judgment the amount of two hundred seventy-five thousand dollars (\$275,000), as set forth in the settlement agreements attached hereto as Attachments 1 and 2, to satisfy claims that the United States has against each defendant under both the False Claims Act and the Sherman Act. No additional payments are called for under this Final Judgment.

IV. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

V. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making

EXHIBIT A

copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and Plaintiff's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

DATED: _____

UNITED STATES DISTRICT JUDGE

Attachment 1

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Department of Interior, Bureau of Land Management (collectively the “United States”), SG Interests VII, Ltd. (“SG”), and Anthony B. Gale (“Gale”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. SG is an energy corporation that, for purposes relevant to this Agreement, participated at public auctions for federal oil and gas leases conducted by the Bureau of Land Management (“BLM”) in Lakewood, Colorado, from February 10, 2005 through November 9, 2006. At these auctions, SG, acting through a proxy bidder, bid on and won several federal gas leases located in Gunnison and Delta Counties, Colorado. SG was a party, along with another energy company, to two agreements under which SG assigned an undivided 50% interest in the federal leases it obtained at the public auction to the other company. These agreements were a Memorandum of Understanding dated February 8, 2005 (the “MOU”) and an Area of Mutual Interest Agreement dated June 3, 2005 (the “AMIA”).

B. In October 2009, Gale filed a *qui tam* action in the United States District Court for the District of Colorado captioned *United States ex rel. Anthony B. Gale v. Gunnison Energy Corporation, et al.*, Civil Action No. 09-cv-02471-RBJ-KLM, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (“the Civil

Action”). In that complaint, Gale alleges that SG defrauded the United States in connection with public auctions of federal gas leases conducted by the BLM in Lakewood, Colorado beginning on February 10, 2005 through November 9, 2006. SG was the winning bidder on 22 federal gas leases at the BLM’s public auctions between February 10, 2005 through November 9, 2006. As part of the BLM’s bidding process, SG was required to complete and sign a bid form certifying that SG’s bid was reached “independently and without collusion for the purpose of restricting competition,” and that it had not violated 18 U.S.C. § 1860, which prohibits unlawful combination or intimidation of bidders. Gale alleges that SG’s certifications on the BLM bid forms were false statements since SG had allegedly colluded with the other company to drive down the price of the bids for leases that were subject to the MOU and AMIA. As a result, Gale alleges that the BLM received significantly reduced revenues from these leases. The conduct described in this paragraph is referred to herein as the Covered Conduct.

C. The United States contends that it has certain civil claims against SG arising from the Covered Conduct.

D. This Settlement Agreement is neither an admission of liability by SG nor a concession by the United States that its claims are not well founded.

E. Gale claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement (“Relator’s Share”) and to Gale’s reasonable expenses, attorneys’ fees, and costs (“Relator’s Legal Fees”).

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. SG shall pay to the United States two hundred seventy-five thousand dollars (\$275,000.00) (“the Settlement Amount”) by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney’s Office for the District of Colorado no later than ten (10) days after entry of the Final Judgment in the civil action to be brought by the Antitrust Division pursuant to the Antitrust Procedures and Penalties Act (“the Tunney Act”), 15 U.S.C. §§ 16(b) – (d).

2. Conditioned upon the United States receiving the Settlement Amount from SG and as soon as feasible after receipt, the United States shall pay Gale a Relator’s Share of forty-one thousand two hundred and fifty dollars (\$41,250.00), by electronic funds transfer.

3. SG shall pay Gale \$25,000.00 for Relator’s Legal Fees by electronic funds transfer, no later than ten (10) days after the Effective Date of this Agreement. Payments of Relator’s Legal Fees shall be made in accordance with instructions to be provided by Relator’s counsel.

4. Subject to the exceptions in Paragraph 6 (concerning excluded claims) below, and conditioned upon SG’s full payment of the Settlement Amount, the United

States releases SG, together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners; and current or former officers, directors, employees, and affiliates; and the successors and assigns of any of them, from any civil monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733, and the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; from any claim the United States Department of the Interior may have for debarment of SG from participating in leasing under the Mineral Leasing Act and Minerals Leasing Act for Acquired Lands, 30 U.S.C. §§ 181-281 & §§ 351-359, and 43 C.F.R. Part 35; from any civil monetary claim the United States has under common law theories of breach of contract, payment by mistake, unjust enrichment, disgorgement, negligent misrepresentation, and fraud. SG's full payment of this Settlement Amount will also satisfy claims that the United States has against SG under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1, as set forth in: (1) the proposed Final Judgment, and (2) the Stipulation between SG and the Department of Justice, Antitrust Division, attached hereto as Attachments 1 and 2, respectively.

5. Subject to the exceptions in Paragraph 6 below, and conditioned upon SG's full payment of the Settlement Amount and Relator's Legal Fees, Gale, for himself and for his heirs, successors, attorneys, agents, and assigns, releases SG together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners; and current or former officers,

directors, employees, and affiliates; and the successors and assigns of any of them, from any civil monetary claim Gale has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

6. Notwithstanding the releases given in paragraph 4 and 5 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any administrative liability, except as otherwise expressly released in paragraph 4;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- g. Any liability for failure to deliver goods or services due;
- h. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct; and

i. Any liability of individuals, other than the liability of individuals within the categories of persons expressly released in paragraph 4.

7. Gale and his heirs, successors, attorneys, agents, and assigns agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Gale's receipt of the payments described in Paragraphs 2 and 3, Gale and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

8. Gale, for himself and for his heirs, successors, attorneys, agents, and assigns (for the purpose of this paragraph, collectively "Gale"), releases SG, together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners; and current or former officers, directors, employees, and affiliates; and the successors and assigns of any of them (for the purpose of this paragraph, collectively "SG"), from any liability to Relator arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorney's fees and costs, conditioned upon the payments described in

Paragraphs 2 and 3. SG likewise releases Gale from any liability to SG arising from the filing of the Civil Action.

9. SG waives and shall not assert any defenses SG may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

10. SG fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that SG has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

11. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of SG, and

its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil or criminal investigation(s) of the matters covered by this Agreement;
- (3) SG's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment SG makes to the United States pursuant to this Agreement and any payments that SG may make to Gale, including costs and attorneys fees,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by SG, and SG shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment:

Within 90 days of the Effective Date of this Agreement, SG shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by SG or any of its subsidiaries or affiliates from the United States. SG agrees that the United States, at a minimum, shall be entitled to recoup from SG any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine SG's books and records and to disagree with any calculations submitted by SG or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by SG, or the effect of any such Unallowable Costs on the amount of such payments.

12. This Agreement is intended to be for the benefit of the Parties only.

13. Upon receipt of the payment described in Paragraph 1, above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of Party with prejudice, pursuant to Rule 41(a)(1).

14. Other than SG's payments of Relator's Legal Fees, as set forth in Paragraph 3, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

15. Each party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

16. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Colorado. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

17. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

18. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

19. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

20. This Agreement is binding on SG's successors, transferees, heirs, and assigns.

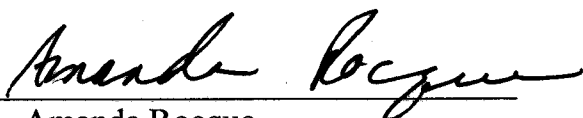
21. This Agreement is binding on Gale's successors, transferees, heirs, and assigns.

22. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

23. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date of this Agreement"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 12/9/11

BY: 

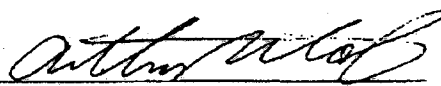
Amanda Rocque
Assistant United States Attorney
United States Attorney's Office
for the District of Colorado
1225 Seventeenth Street, Suite 700
Denver, CO 80202
Counsel for the United States of America

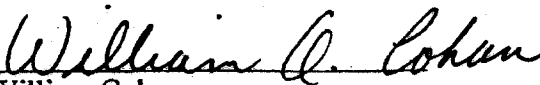
SG INTERESTS VII, LTD.

DATED: BY: _____
Robert H. Guinn, II
Vice President
SG Interests VII, Ltd.

DATED: BY: _____
Poe Leggette, Esq.
Fulbright & Jaworski
Republic Plaza
370 Seventeenth Street, Suite 2150
Denver, Colorado 80202-5638
Counsel for SG


ANTHONY B. GALE - RELATOR

DATED: BY: 
Anthony B. Gale
Relator

DATED: BY: 
William Cohan
P.O. Box 3448
Rancho Santa Fe, CA 92067
Counsel for Relator

SG INTERESTS VII, LTD.

DATED: BY: _____
Robert H. Guinn, II
Vice President
SG Interests VII, Ltd.

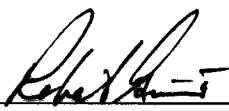
DATED: 12/9/11 BY:  _____
Poe Leggette, Esq.
Fulbright & Jaworski
Republic Plaza
370 Seventeenth Street, Suite 2150
Denver, Colorado 80202-5638
Counsel for SG

ANTHONY B. GALE - RELATOR

DATED: BY: _____
Anthony B. Gale
Relator

DATED: BY: _____
William Cohan
P.O. Box 3448
Rancho Santa Fe, CA 92067
Counsel for Relator

SG INTERESTS VII, LTD.

DATED: BY: 
Robert H. Guinn, II
Vice President for Gordy Oil Company
General Partner of SG Interests VII, Ltd.

DATED: BY: _____
Poe Leggette, Esq.
Fulbright & Jaworski
Republic Plaza
370 Seventeenth Street, Suite 2150
Denver, Colorado 80202-5638
Counsel for SG

ANTHONY B. GALE - RELATOR

DATED: BY: _____
Anthony B. Gale
Relator

DATED: BY: _____
William Cohan
P.O. Box 3448
Rancho Santa Fe, CA 92067
Counsel for Relator

Attachment 2

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Department of Interior, Bureau of Land Management (collectively the “United States”), Gunnison Energy Corporation (“Gunnison”), and Anthony B. Gale (“Gale”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. Gunnison is an energy corporation that, for purposes relevant to this Agreement, participated at public auctions for federal oil and gas leases conducted by the Bureau of Land Management (“BLM”) in Lakewood, Colorado, including from February 10, 2005 through November 9, 2006. Gunnison was a party, along with SG Interests VII, Ltd. (“SG”), another energy company, to two agreements under which it was agreed, among other things, that SG would bid on leases at the BLM auctions, and if it won, SG would assign an undivided 50% interest in the federal leases it obtained at the public auction to Gunnison. These agreements were a Memorandum of Understanding dated February 8, 2005 (the “MOU”) and an Area of Mutual Interest Agreement dated June 3, 2005 (the “AMIA”).

B. In October 2009, Gale filed a *qui tam* action in the United States District Court for the District of Colorado captioned *United States ex rel. Anthony B. Gale v. Gunnison Energy Corporation, et al.*, Civil Action No. 09-cv-02471-RBJ-KLM, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (“the Civil

Action”). In that complaint, Gale alleges that Gunnison defrauded the United States in connection with public auctions of federal gas leases conducted by the BLM in Lakewood, Colorado beginning on February 10, 2005 through November 9, 2006. SG, acting through a proxy bidder, was the winning bidder on 22 federal gas leases at the BLM’s public auctions between February 10, 2005 through November 9, 2006. After winning the federal leases at the BLM auctions, SG assigned a 50% interest in those leases to Gunnison. As part of the BLM’s bidding process, SG was required to complete and sign a bid form certifying that the winning bid was reached “independently and without collusion for the purpose of restricting competition,” and that it had not violated 18 U.S.C. § 1860, which prohibits unlawful combination or intimidation of bidders. Gale alleges that these certifications on the BLM bid forms were false statements since SG and Gunnison had allegedly colluded to drive down the price of the bids for leases that were subject to the MOU and AMIA. As a result, Gale alleges that the BLM received significantly reduced revenues from these leases. The conduct described in this paragraph is referred to herein as the Covered Conduct.

C. The United States contends that it has certain civil claims against Gunnison arising from the Covered Conduct.

D. Gunnison denies liability for the allegations asserted in the *qui tam* complaint. This Settlement Agreement is not a concession by the United States that its claims are not well founded.

E. Gale claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement (“Relator’s Share”) and to Gale’s reasonable expenses, attorneys’ fees, and costs (“Relator’s Legal Fees”).

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Gunnison shall pay to the United States two hundred seventy-five thousand dollars (\$275,000.00) (“the Settlement Amount”) by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney’s Office for the District of Colorado no later than ten (10) days after entry of the Final Judgment in the civil action to be brought by the Antitrust Division pursuant to the Antitrust Procedures and Penalties Act (“the Tunney Act”), 15 U.S.C. §§ 16(b) – (d).

2. Conditioned upon the United States receiving the Settlement Amount from Gunnison and as soon as feasible after receipt, the United States shall pay Gale a Relator’s Share of sixty-eight thousand seven hundred and fifty dollars (\$68,750.00), by electronic funds transfer.

3. Gunnison shall pay William A. Cohan, counsel for Gale (“Relator’s Counsel”), twenty-five thousand dollars (\$25,000.00) for Relator’s Legal Fees by electronic funds transfer, no later than ten (10) days after the Effective Date of this

Agreement. Payments of Relator's Legal Fees shall be made in accordance with instructions to be provided by Relator's Counsel.

4. Subject to the exceptions in Paragraph 6 (concerning excluded claims) below, and conditioned upon Gunnison's full payment of the Settlement Amount, the United States releases Gunnison, together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners; and current or former officers, directors, employees, and affiliates; and the successors and assigns of any of them, from any civil monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733, and the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; from any claim the United States Department of the Interior may have for debarment from participating in leasing under the Mineral Leasing Act and Minerals Leasing Act for Acquired Lands, 30 U.S.C. §§ 181-281 & §§ 351-359, and 43 C.F.R. Part 35; from any civil monetary claim the United States has under common law theories of breach of contract, payment by mistake, unjust enrichment, disgorgement, negligent misrepresentation, and fraud. Gunnison's full payment of this Settlement Amount will also satisfy claims that the United States has against Gunnison under Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1, as set forth in: (1) the proposed Final Judgment, and (2) the Stipulation between Gunnison and the Department of Justice, Antitrust Division, attached hereto as Attachments 1 and 2, respectively. It is understood that Gunnison is making one single

payment of two hundred seventy-five thousand dollars (\$275,000.00) to the United States to settle both the False Claims Act claims in this Civil Action and the antitrust claims in the civil action brought by the Antitrust Division pursuant to the Tunney Act.

5. Subject to the exceptions in Paragraph 6 below, and conditioned upon Gunnison's full payment of the Settlement Amount and Relator's Legal Fees, Gale, for himself and for his heirs, successors, attorneys (including without limitation Relator's Counsel), agents, and assigns, releases Gunnison together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners; and current or former officers, directors, employees, and affiliates; and the successors and assigns of any of them, from any civil monetary claim Gale has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

6. Notwithstanding the releases given in paragraphs 4 and 5 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any administrative liability, except as otherwise expressly released in paragraph 4;

- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- g. Any liability for failure to deliver goods or services due;
- h. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct; and
- i. Any liability of individuals, other than the liability of individuals

within the categories of persons expressly released in paragraph 4 to the extent released in that paragraph.

7. Gale and his heirs, successors, attorneys (including without limitation Relator's Counsel), agents, and assigns agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Gale's receipt of the payments described in Paragraphs 2 and 3, Gale and his heirs, successors, attorneys (including without limitation Relator's Counsel), agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31

U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

8. Gale, for himself and for his heirs, successors, attorneys (including without limitation Relator's Counsel), agents, and assigns (for the purpose of this paragraph, collectively "Gale"), releases Gunnison, together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former owners; and current or former officers, directors, employees, and affiliates; and the successors and assigns of any of them (for the purpose of this paragraph, collectively "Gunnison"), from any liability to Relator arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorney's fees and costs, conditioned upon the payments described in Paragraphs 2 and 3. Gunnison likewise releases Gale, his heirs, successors, attorneys (including without limitation Relator's Counsel), agents, and assigns from any liability to Gunnison arising from any and all activities conducted which relate to the filing of the Civil Action.

9. Gunnison waives and shall not assert any defenses Gunnison may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy

sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

10. Gunnison fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Gunnison has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

11. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of Gunnison, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil or criminal investigation(s) of the matters covered by this Agreement;
- (3) Gunnison's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the

matters covered by this Agreement (including attorney's fees);

- (4) the negotiation and performance of this Agreement;
- (5) the payment Gunnison makes to the United States pursuant to this Agreement and any payments that Gunnison may make to Gale, including costs and attorneys fees,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by Gunnison, and Gunnison shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, Gunnison shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by Gunnison or any of its subsidiaries or affiliates from the United States. Gunnison agrees that the United States, at a minimum, shall be entitled to recoup from Gunnison any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit,

examine, or re-examine Gunnison's books and records and to disagree with any calculations submitted by Gunnison or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by Gunnison, or the effect of any such Unallowable Costs on the amount of such payments.

12. This Agreement is intended to be for the benefit of the Parties, as well as the individuals and entities identified in Paragraphs 4, 5, 7, and 8.

13. Upon receipt of the payment described in Paragraph 1, above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of Party with prejudice, pursuant to Rule 41(a)(1).

14. Other than Gunnison's payments of Relator's Legal Fees, as set forth in Paragraph 3, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

15. Each party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

16. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Colorado. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

17. This Agreement constitutes the complete agreement between the Parties.

This Agreement may not be amended except by written consent of the Parties.

18. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

19. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

20. This Agreement is binding on Gunnison's successors, transferees, heirs, and assigns.

21. This Agreement is binding on Gale's successors, transferees, heirs, and assigns.

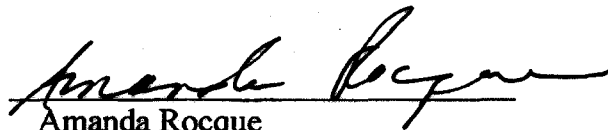
22. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

23. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date of this Agreement"). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 2/13/12

BY:



Amanda Rocque
Assistant United States Attorney
United States Attorney's Office
for the District of Colorado
1225 Seventeenth Street, Suite 700
Denver, CO 80202
Counsel for the United States of America

GUNNISON ENERGY CORPORATION

DATED:

BY:

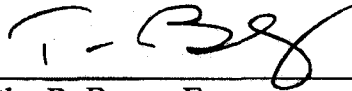


M. Bradford Robinson
President
Gunnison Energy Corporation

AS TO FORM ONLY:

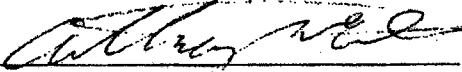
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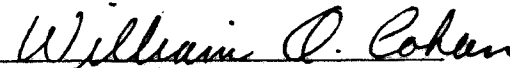
BY:



Timothy R. Beyer, Esq.
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410 Seventeenth Street, Suite 2200
Denver, CO 80202-4432
Counsel for Gunnison Energy Corporation

ANTHONY B. GALE - RELATOR

DATED: 2/14/12 BY: 
Anthony B. Gale
Relator

DATED: BY: 
William Cohan
P.O. Box 3448
Rancho Santa Fe, CA 92067
Counsel for Relator