

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

Civil Action No. _____

UNITED STATES OF AMERICA
U.S. Department of Justice
Antitrust Division
450 5th Street, NW
Suite 8000
Washington, DC 20530

Plaintiff,

v.

SG INTERESTS I, LTD.
SG INTERESTS VII, LTD.
2 Houston Center
909 Fannin, Suite 2600
Houston, TX 77010

and

GUNNISON ENERGY CORPORATION
1801 Broadway, Suite 1200
Denver, CO 80202

Defendants.

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action under Section 4 of the Sherman Act, as amended, 15 U.S.C. § 4, and Section 4A of the Clayton Act, as amended, 15 U.S.C. § 15a, to obtain equitable and legal remedies against Defendants Gunnison Energy Corporation (“GEC”), and SG Interests I, Ltd. and SG Interests VII, Ltd. (collectively, “SGI”) for their violation of Section 1 of

the Sherman Act, as amended, 15 U.S.C. § 1.

Prior to 2005, GEC and SGI were separately engaged in exploration and development of natural gas resources in the Ragged Mountain Area (or “RMA”) of Western Colorado.¹ Recognizing that they would be the primary competitors to acquire three natural gas leases for exploration and development on federal lands in the RMA that were to be auctioned by the Bureau of Land Management (“BLM”) in February 2005, GEC and SGI executed a Memorandum of Understanding (the “MOU”) on the eve of the auction pursuant to which they agreed not to compete for the leases. Instead, under the MOU, SGI would bid at the auction and, if they won, assign a fifty percent interest in the acquired leases to GEC. The parties extended the MOU to include a fourth lease auctioned by the BLM in May 2005. As a result of the MOU, the United States received substantially less revenue from the sale of leases than it would have had SGI and GEC competed at the auctions.

I. DEFENDANTS

1. SG Interests I, Ltd. and SG Interests VII, Ltd. are Texas limited partnerships with their headquarters in Houston, Texas. The managing partner of both of the limited partnerships is Gordy Oil Company, a Texas corporation. SGI was formed for the purpose of developing natural gas resources in the Ragged Mountain Area. SGI holds, in whole or in part, interests in federal leases on approximately 40,000 acres within the Ragged Mountain Area. It also owns, in whole or in part, interests in and is the operator for natural gas pipelines in the Ragged Mountain Area.

¹ For purposes of this Complaint, we define the Ragged Mountain Area as covering roughly a region encompassed by the Townships 10S through 12S and Ranges 89W through 91W, as designated by the Public Land Survey System, comprising portions of Delta, Gunnison, Mesa and Pitkin Counties.

2. GEC is a Delaware corporation with its principal place of business in Denver, Colorado. GEC holds, in whole or in part, interests in federal leases on approximately 52,000 acres within the Ragged Mountain Area. It also owns, in whole or in part, interests in and is the operator for natural gas pipelines in the Ragged Mountain Area.

II. JURISDICTION AND VENUE

3. The United States files this Complaint under Section 4 of the Sherman Act, 15 U.S.C. § 4, and Section 4A of the Clayton Act, 15 U.S.C. § 15a, seeking equitable relief and damages from Defendants' violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

4. The Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 4 and 15a and 28 U.S.C. §§ 1331 and 1337.

5. Defendants waive any objection to venue and personal jurisdiction in this judicial district for the purpose of this Complaint.

6. SGI's and GEC's activities are in the flow of and substantially affect interstate commerce.

III. FEDERAL OIL AND GAS LEASE AUCTIONS

7. The BLM manages natural resources on federal lands, including rights to subsurface oil and natural gas. The BLM sells onshore oil and gas leases to private parties, granting leaseholders the exclusive right to explore and develop oil and gas deposits on their leases. The initial term of a BLM onshore oil and gas lease is ten years.

8. Private parties, such as oil and gas companies, typically acquire onshore oil and gas leases on federal lands at auctions which each regional BLM office conducts as often as quarterly. Auctions are conducted orally and openly, with each lease starting at a minimum bid

of two dollars per acre. Bidding on a lease ends when no other person attending the auction bids a higher price than the then outstanding offer. In addition to the amount of the bid, the winning bidder must make annual rental payments during the life of the lease and, if development is successful, pay a 12.5 percent royalty on the value of production from the leases. Revenues from BLM leases flow to the United States Treasury.

9. At the conclusion of the auction, each successful bidder must submit a lease bid form, which constitutes a legally binding lease offer for the amount of the winning bid. By signing the form, the bidder also certifies that it is qualified to bid and did not engage in collusion.

10. In advance of each auction, each regional BLM office publishes a Notice of Competitive Lease Sale identifying the lease parcels to be offered at the quarterly auction. Private parties may nominate lands for BLM to consider offering at auction by submitting an “expression of interest.”

IV. THE UNLAWFUL AGREEMENT

11. In 2001, SGI and GEC began independently acquiring and developing gas leases in the Ragged Mountain Area. Prior to 2003, their activities generally focused on different parts of the Ragged Mountain Area, with SGI acquiring leases on the eastern side of the area (which is now designated by BLM as the Bull Mountain Unit Area) while GEC acquired leases along the southern boundary. However, over the course of 2003 and 2004, their interests began to overlap as each sought pipelines and leases held by BDS International, LLC and affiliated entities (collectively, “BDS”) and as the BLM leased additional parcels.

12. Conflicting efforts by SGI and GEC to acquire assets held by BDS resulted in litigation between Defendants in 2004. In September 2004, SGI submitted expressions of interest to the BLM for additional lands within the Ragged Mountain Area, including parcels adjacent to leases held by GEC.

13. In October 2004, GEC and SGI met to discuss the prospect of settling the litigation and entering into a collaboration to develop the Ragged Mountain Area. The potential collaboration contemplated joint acquisition of the BDS assets, improvements to the existing BDS pipelines, and joint development of new pipelines to serve the area. These discussions, however, quickly foundered.

14. On or about December 23, 2004, the BLM announced a Notice of Competitive Lease Sale that included three tracts in the Ragged Mountain Area, COC068350 (comprising 320 acres), COC068351 (comprising 1280 acres) and COC068352 (comprising 1404 acres). The three leases covered areas contained in SGI's September 2004 expression of interest. The auction was set to occur on February 10, 2005.

15. Both SGI and GEC were independently interested in certain of the tracts that would be auctioned and both likely would have bid – and bid against each other – at the February auction. On or about February 2, 2005, SGI and GEC embarked on discussions to forestall competing against one another for the three BLM leases to be auctioned. These discussions resulted in the drafting of the written MOU by attorneys for SGI and GEC that was executed by the parties on February 8, 2005, just two days before the February 10, 2005 auction.

16. Under the MOU, only SGI would bid at the auction for the three leases in the Ragged Mountain Area offered by the BLM at the February auction. SGI and GEC would

jointly set a maximum price for SGI to bid for the three leases. If SGI successfully acquired the leases, it would assign a fifty percent interest to GEC at cost.

17. At the February auction, SGI bid for and obtained the three BLM leases covered by the MOU. GEC attended the auction, but, honoring the terms of the MOU, did not bid. SGI obtained COC068350, COC068351 and COC068352 for \$72 per acre, \$30 per acre and \$22 per acre, respectively.

18. On or about May 10, 2005, SGI and GEC amended the MOU to include an additional lease, COC068490 (comprising 643 acres), in the Ragged Mountain Area set to be auctioned by the BLM on May 12, 2005. The parties agreed to bid as high as \$300 per acre for this parcel. Though the defendants had recommenced their discussions regarding litigation settlement and a development collaboration in March 2005, they had not yet been able to reach terms of an agreement.

19. On May 12, 2005, SGI bid for and obtained COC068490 pursuant to the terms of the MOU. Again, GEC attended the auction but did not bid. SGI won the lease with a bid of only \$2 per acre.

20. The MOU was not part of a procompetitive or efficiency enhancing collaboration. The defendants did not reach an agreement to engage in a broad collaboration to jointly acquire and develop leases and pipelines in the Ragged Mountain Area until the summer of 2005. The MOU was not ancillary to the latter agreement.

21. As a result of the MOU, the United States, through the BLM, received less revenue that it would have received had SGI and GEC competed for leases in the Ragged Mountain Area at the February and May 2005 auctions. Pursuant to the MOU, SGI and GEC

successfully avoided bidding against one another for leases covering approximately 3650 acres.

If SGI and GEC had bid against each other, the winner would have paid BLM a higher price.

V. VIOLATION ALLEGED

22. The United States hereby incorporates paragraphs 1 through 21.

23. The MOU between SGI and GEC unreasonably restrained competition for the acquisition of BLM leases in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

24. The United States was injured as a result of the unlawful agreement in that it received lower bid payments for leases at the BLM's February and May 2005 auctions than it would have absent the illegal agreement.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

25. That the Court adjudge and decree that the MOU constitutes an illegal restraint of trade in violation of Section 1 of the Sherman Act;

26. That the Court award Plaintiff treble damages for the losses it incurred as a result of Defendants' conduct;

27. That Plaintiff shall have such other relief, including equitable monetary relief, as the nature of this case may require and is just and proper to prevent the recurrence of the alleged violation and to dissipate the anticompetitive effects of the violation; and

28. That Plaintiff recover the costs of this action.

DATED: February 15, 2012

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

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Acting Assistant Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2012, I mailed or served a copy of the Complaint by certified mail to the following:

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