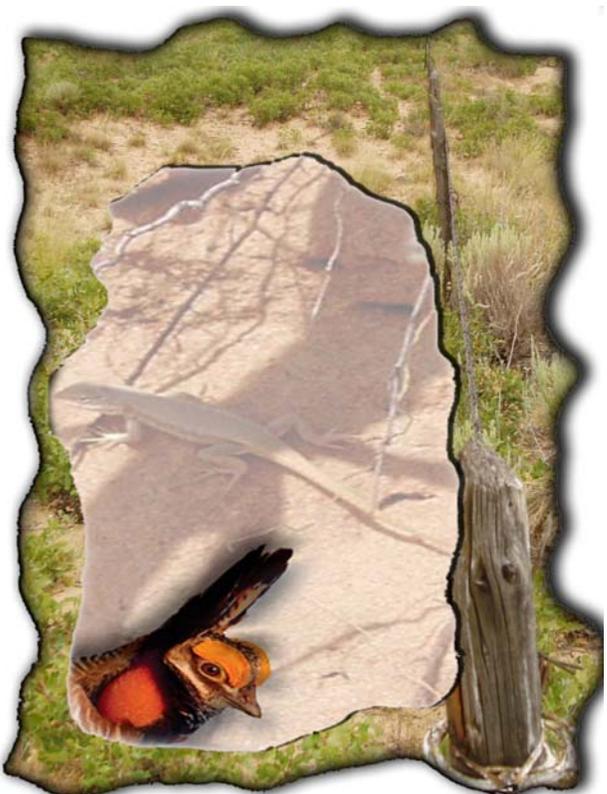


Appendix 11



APPENDIX 11

COMMENTS AND RESPONSES FROM THE DRAFT SPECIAL STATUS SPECIES RESOURCE MANAGEMENT PLAN AMENDMENT

INTRODUCTION

On October 20, 2006, BLM released for public comment the Draft Special Status Species Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS). The RMPA would amend the Roswell and Carlsbad Resource Management Plans with regards to habitat management for the lesser prairie-chicken and the sand dune lizard. The EIS analyzed alternative management strategies which could be employed as well as BLM's Preferred Alternative. The 90-day public review period closed on January 18, 2007.

Notice of the public review period was published in the *Federal Register* on October 20, 2006, by the Environmental Protection Agency. The public was notified of the following dates and venues for public meetings through news releases as well as the BLM New Mexico and the Pecos District websites. The public meetings were held between the hours of 7:00 p.m. and 9:00 p.m. Public comments were received at these meetings and recorded by BLM staff.

PUBLIC COMMENT ANALYSIS

The 90-day public review period yielded five oral comments from the public meetings and 13 comment letters. The term "comment" is used to describe both letters received and the individual comments contained in those letters regarding particular issues or concerns. Thus, the 13 letters contained 110 different comments.

The Planning Team documented and analyzed public comments on the Draft EIS using a process called content analysis.

This process provides a systematic method of compiling and categorizing public viewpoints and concerns. Content analysis is intended to facilitate good decision-making by helping the Planning Team clarify, adjust, or incorporate technical information in preparing the Proposed RMPA/Final EIS.

TABLE 11-1 PUBLIC MEETINGS	
MEETING DATE	LOCATION
November 9, 2006	Hobbs Public Library 509 North Shipp Street Hobbs, NM
November 16, 2006	Chaves County Commission Chambers 1 St. Mary's Place Roswell, NM
November 21, 2006	Carlsbad Public Library 101 South Halagueno Street Carlsbad, NM
November 28, 2006	Artesia Community Center 512 North 8 th Street Artesia, NM
November 30, 2006	Midland Center 105 North Main Street Midland, TX

TABLE 11-1 COMMENT LETTERS RECEIVED VIA E-MAIL AND POSTAL		
TRACKING NUMBER	NAME	ORGANIZATION
01	Lisa M. Meyer	New Mexico Department of Cultural Affairs, Historic Preservation Division
02	James B Montgomery, Jr.	
03		Chaves County Commissioners
04	Terry Z. Riley	Theodore Roosevelt Conservation Partnership
05	Robert J. Sandilos	Chevron Global Upstream
06	Victoria L. Sanchez	Devon Energy Production Company
07	Charles T. Pinson, Jr.	Central Valley Electric Cooperative, Inc.
08	Rand French	Marbob Energy Corporation
09	Armando Lopez	Yates Energy Corporation
10	Deborah Seligman	New Mexico Oil & Gas Association
11	Nicole J. Rosmarino	Forest Guardians
12	Gordon Yahney	
13	Lisa Kirkpatrick	New Mexico Department of Game and Fish

BLM's project management team leader reviewed the public comments and assigned appropriate staff to each public comment. Assigned staff evaluated the public comments, made revisions in the Proposed RMPA/Final EIS as appropriate, and prepared written responses to the public comments that are presented below. It is important for the public to understand that this process does not treat comments as votes and thus cannot sway decision makers toward the opinion of individuals, groups, or pluralities. Content analysis assures that every comment is considered with equal merit in the decision process.

Responses to public comments are provided below. In reviewing the public comments and responses, readers should note the following:

- To the extent that two or more public comments are the same or very similar, the comments are grouped together and addressed as one response.
- For public comments well beyond the geographic range of this plan and/or subjects not pertinent to this

plan amendment, no response was prepared.

BLM attempted to address every public comment on all major subjects in this appendix. Redundant material was not included, thereby maintaining a manageable size to the Final EIS. A complete list of public comments is available from BLM by request.

The public comments that follow are grouped by Resource or Issue. The reader is encouraged to review all the groupings to fully understand public comments on particular subjects. The subject groupings are:

- Selection of the Preferred Alternative
- Planning and Management
- Lands & Realty
- Oil and Gas Leasing and Operations
- Soil, Water, Air, and Floodplains
- Vegetation
- Livestock Grazing
- Wildlife, including Special Status Species
- Cultural Resources
- Off-Highway Vehicles
- Socio-Economic Conditions

COMMENTS AND RESPONSES

SELECTION OF THE PREFERRED ALTERNATIVE

As stated previously in the Introduction, BLM received 13 comment letters during the 90-day public comment period for the Draft RMPA. Of these letters six favored Alternative A as its preferred alternative. Many of the comments listed concerns regarding the differences between Alternatives A and B. Rather than scatter those comments and responses through this section, BLM has compiled those comments here for clarification.

1. COMMENT: *After all the time and effort spent in developing the Conservation Strategy, BLM's selection of Alternative B as the preferred alternative instead of Alternative A (the Working Group Conservation Strategy) undermines the spirit of collaborative planning.*

RESPONSE: BLM is very appreciative of the effort people invested in the Working Group and the Conservation Strategy developed by the Group. The concepts and ideas developed by the Group and incorporated into the Conservation Strategy are invaluable. BLM recognizes it would not have been able to move as quickly and efficiently through the planning process if the tremendous amount of work had not been completed by the Working Group.

BLM contends Alternatives A and B are significantly more alike than they are different. BLM believes the management prescriptions found in Alternative B (but not Alternative A) would ease implementation, reduce BLM's costs, and, perhaps most importantly, would still allow continued resource uses while protecting wildlife habitat.

2. COMMENT: *The oil and gas industry gave significant acreage in the closed to leasing category from No Action to Alternative A. Now BLM is proposing to close more acres to leasing under the preferred alternative, Alternative B.*

RESPONSE: The increase in acreage closed to new oil and gas leasing (about 12,350 acres) can be accounted for in the larger Core Management Area (CMA) in Alternative B. Alternative A arrayed the CMA in three separate blocks. See Map A-1. The public land between the two southern blocks in Alternative A is designated as Sparse and Scattered Population Area (SSPA) and includes the Mescalero Sands Area of Critical Environmental Concern (ACEC).

The ACEC (7,888 acres of public land) was established by the 1997 Roswell RMP and at that time was closed to new oil and gas leasing. Additionally, the area between the two blocks of CMA is occupied chicken habitat, which under both Alternative A and Alternative B would be closed to new oil and gas leasing. Instead of having two separate management prescriptions with identical results (closed to new oil and gas leasing), BLM included this 4,462-acre area in the CMA of Alternative B. See the different CMA designations on Map A-1 and Map B-1.

3. COMMENT: *On page 2-43, "Sand Dune Lizard - New Oil and Gas leasing, Tracts not currently under lease within the lizard habitat Boundary would be closed to leasing until..." This is a de facto no leasing*

statement within shinnery oak dune habitat, mesquite grasslands or other type of habitat until BLM can complete an evaluation. The green line encompasses a mosaic of vegetation types, some of which is not conducive to lizards/chickens. Leasing should still occur within all of these areas with industry understanding that avoidance of occupied habitat is necessary along with minimal disturbance in suitable habitats. We do not need surveys at the time of leasing, only at the time of POD or APD.

RESPONSE: Based on the comments received BLM has revised Alternative B, Sand Dune Lizard – New Oil and Gas Leasing, to more accurately portray its intent. It was not BLM’s intent to portray the Sand Dune Lizard Habitat area, depicted by a green boundary line (see Map B-1), as contiguous occupied or suitable habitat. BLM understands the Sand Dune Lizard Habitat area contains many acres that could be developed for oil and gas without impacting occupied and suitable sand dune lizard habitat.

Under the revised management prescription, BLM would review any tract nominated for leasing for lizard habitat. Based on the results of the pre-lease review, BLM has four options:

- Withhold the tract from leasing until more information can be obtained; or
- Offer the tract for lease with appropriate portions containing a NSO stipulation; or
- Offer the tract for lease with a requirement that the lessee conduct a sand dune lizard occupancy survey, which after a review and approval by BLM, would result in appropriate Conditions of Approval to protect habitat; or

- Offer the tract for lease with standard leasing terms and conditions.

Under the first option, BLM cannot guarantee a date when additional information can be obtained and the tract offered for lease since this is dependent on BLM workload and funding. Under the second and third options lessees can request waivers, exceptions or modifications to their lease described in Chapter 2, Alternative B.

4. COMMENT: *Alternative B prescribes no new well pads within 200 meters of dune areas. This prescription is too restrictive. Data collected by Sias and Snell (1996) supports that impact to sand dune lizards are greatly reduced when new oil/gas well pads are placed at least 100 meters away from occupies dune complexes while allowing oil and gas development to occur. The additional 100 meter protection area is excessive.*

RESPONSE: Sias and Snell (1996) state that 100 meters greatly reduces the impacts, however; the same report states: “a statistically significant pattern of greater numbers of sand dune lizards occurring at the Far plots (200-220 m from well pad) compared to the adjacent plots (10-30 m) and the Intermediate Plots (50-70 m).” BLM has the authority to move a prospective well location up to 200 meters and this prescription falls within that distance.

Alternative B proposes moving well locations up to 200 meters, which is a tool available to BLM (43 CFR 3101.1-2) that is used to minimize or eliminate impacts from well pad construction. Proposed well locations would only be moved the distance necessary to place the well and its infrastructure out of dune complexes.

The NSO requirement in dune complexes in Alternative B is BLM's attempt to focus habitat protection on a specific habitat type. BLM believes the NSO requirement for dune complexes, coupled with the process described in Response to Comment #3 should result in protection of occupied habitat, and allow for the expansion of lizard populations while allowing continued oil and gas development.

5. COMMENT: *BLM dropped the possibility of having 13 pads per sq mile within the shinnery oak dune habitat from Alternative B. Industry is willing to avoid occupied habitat but in some large dune complexes (greater than 5 acres) there may be a need to develop on the edges of these habitats.*

RESPONSE: The New Mexico Department of Game and Fish study cited in the comments indicates that when development reaches 13 wells per square mile, the population of sand dune lizards drops approximately 25 percent. Within the US Fish and Wildlife Service, the lizard has a higher priority for potential listing as threatened or endangered than the chicken. In BLM's judgment, possible reduction in lizard populations by 25 percent is not consistent with the goal of preventing the lizard from being listed while allowing other activities to continue. BLM believes Alternative B establishes a process that allows development while protecting lizard habitat and, therefore, lizard populations.

By focusing on dune complexes BLM's intent is to apply protective measures only where necessary. By moving prospective well locations up to 200 meters, well pads and roads can avoid occupied and suitable habitat even in locations where the dune locations are greater than 5 acres in size. Working

with the lessee through a plan of development BLM believes Alternative B establishes a process that allows development while protecting lizard habitat and, therefore, lizard populations while allowing development of a lease.

6. COMMENT: *The mandatory removal of electric power lines can hinder future oil and gas development. A voluntary removal program would be better.*

RESPONSE: The text on page 2-41 of the Draft RMPA stated:

"In order to provide opportunities for expansion of lesser prairie chicken habitat within the Planning Area and to reduce the impacts of electric power lines, applicants for electric power lines *would* participate in a power line removal credit (PLRC). Under this program applicants *would be required* to remove 1.5 miles of idle power lines (wire and poles) within prairie chicken habitat management unit (CMA, PPA, SSPA and IPA) and habitat type (occupied or suitable/potentially suitable) before receiving authorization to construct 1.0 mile of new power line."

This was an error, which has been corrected PRMPA/FEIS to state:

"In order to provide opportunities for expansion of lesser prairie chicken habitat within the Planning Area and to reduce the impacts of electric power lines, applicants for electric power lines *could* participate in a power line removal credit (PLRC). Under this program applicants *could* remove 1.5 miles of idle power lines (wire and poles) within prairie chicken habitat management unit (CMA, PPA, SSPA and IPA) and habitat type (occupied or suitable/potentially suitable) before receiving authorization to construct 1.0 mile of new power line."

The power line removal credit program is one of six methods which could be used to reduce the impacts of power lines on lesser prairie chicken habitat.

7. COMMENT: *Alternative B should include the provision for annually recalculating suitable habitat in the Primary Population Area (PPA).*

RESPONSE: Alternative A (the Conservation Strategy) had the following provisions in the PPA:

“New leasing in suitable habitat would be considered if, by annual recalculation, there is demonstrated a net increase in the sum of suitable and occupied habitat in the PPA. New leasing in occupied habitat would be considered if the above criterion for suitable habitat is met, and there is a statistically significant lesser prairie-chicken population increase statewide over the previous five years.”

Alternative B has this provision in place of the Alternative A provision:

“BLM would consider new oil and gas leasing in occupied and suitable habitat throughout the Planning Area at such time the lesser prairie chicken is no longer considered for

listing as a threatened or endangered species.”

Based on the comments received BLM has changed the text in Alternative B to state:

“BLM would consider new leasing in suitable habitat within the Primary Population Area when there is a calculated two to one ratio of reclaimed acres to disturbed acres within the entire PPA and inter-agency coordination with the US Fish and Wildlife Service is conducted. The calculation would be conducted at five-year increments from the approval of this resource management plan amendment. In addition to meeting the two to one ratio, other considerations factoring into a decision for new leasing include, but are not limited to, the site characteristics of a tract nominated for leasing such as its proximity to occupied habitat, surface ownership, and the density of existing infrastructure.

“BLM would consider new oil and gas leasing in occupied habitat within the PPA at such time the lesser prairie chicken is no longer considered for listing as a threatened or endangered species.”

PLANNING AND MANAGEMENT

8. COMMENT: *Why did Roosevelt County choose not to participate in the development of this RMPA?*

RESPONSE: BLM extended an invitation to the Roosevelt County Board of Commissioners to participate as a cooperating agency along with the boards of Chaves, Eddy and Lea Counties. Chaves, Eddy and Lea Counties elected to participate as

cooperating agencies. The Roosevelt County Commissioners did not explain to BLM their reason or reasons for choosing not to obtain cooperating agency status.

9. COMMENT: *While there is a chance that lesser prairie-chickens may be found outside of the planning area boundary, there is no need to apply management outside the*

Planning Area. BLM can move the 200 meters from a lek, but should not apply timing stipulations. This is a difficult work around for industry when the area or lek is not known.

RESPONSE: It is prudent for BLM to have management prescriptions in place outside the Planning Area in case an active lek is discovered involving public land and/or Federal minerals. For such situations BLM would apply the management prescriptions found in the existing land use plans (the 1997 Roswell RMP/Carlsbad RMPA, Appendix 1). The management prescriptions of this EIS would apply only within the Planning Area boundary

10. COMMENT: ***On page 2-27, left column, 2nd paragraph, why is the area open to leasing solid minerals? These activities cause more surface damages and disruption than oil and gas development.***

RESPONSE: The section cited in the comment is in the No Action Alternative which lists the current management prescriptions. The reason the Planning Area is currently open to the leasing of solid minerals is explained in the paragraph previous to the one cited, which states:

“Past history indicates public land in the Planning Area has never been mined for locatable minerals. While there have been claims staked in close proximity to the area to date, they have always proven to be purely speculative in nature. Numerous field examinations, geology, and mineral assays have indicated that there are likely no locatable minerals of commercial value in this area.”

One of the goals of this RMP Amendment is to change as few

management prescriptions as possible. Given the low probability of leasing locatable mineral, BLM decided leaving the Planning Area open to locatable minerals was worth the risk.

11. COMMENT: ***“If a surface managing agency or surface owner has supplied to BLM and the operator with a reasonable written environmental requirement, the requirement would be incorporated into the APD . . .” The original text may lead to problems with all of the issues dealing with split estate. The requirement may be included once the oil and gas operator has been notified and negotiations have taken place with the surface owner.***

RESPONSE: BLM agrees and the text on pages 2-3 and 2-4 have been changed to reflect the requirement may be incorporated into the APD.

12. COMMENT: ***On page 2-18, 1st paragraph, suggest deleting surface disturbance “will not be allowed within 200 meters of playas and alkali lakes.” In many cases wells could be located within this distance due to topography. BLM has the authority to move locations up to 200 meters, with on-site inspections defining site-specific surface water protection requirements.***

RESPONSE: The section cited in the comment is in the Management Common to All Alternatives section of Chapter 2. BLM has amended the text to read: “Surface disturbance would not be allowed within up to 200 meters of playas and alkali lakes.” This sentence, as amended, is a direct quote from existing resource management plans and indicates that management around playas and alkali lakes would not be changed by this RMP Amendment.

13. COMMENT: *Would the RMPA remain in effect if chicken and lizard numbers increase to the point of no longer needing listed status?*

RESPONSE: The Draft RMPA/EIS contains the management prescriptions and flexibility to deal with the situation should the status of one or both species be down graded. Should that event occur, Alternatives A and B state that some management prescriptions would remain in place to preclude a return of either species to the status of candidate for listing as threatened or endangered.

14. COMMENT: *The preferred alternative would open 818,000 acres to new leasing, which constitutes 71% of the total BLM-managed surface and subsurface lands in the planning area.*

RESPONSE: Currently 72 percent of the Federal minerals within the Planning Area are leased for oil and gas exploration and development. Under current management plans, nearly all Federal minerals within the Planning Area, 1.145 million acres, are open for new oil and gas leasing. Alternative B, the preferred alternative, proposes to reduce the amount of Federal minerals open to new oil and gas leasing by 221,000 acres.

15. COMMENT: *We are alarmed BLM is proposing leasing Federal minerals in the State Game Commission-owned Prairie Chicken Areas and proposing no surface occupancy requirements to mitigate this breach [in Alternative A].*

RESPONSE: Under the current land use plans, the Federal minerals beneath the Prairie Chicken Areas (PCAs) are open to leasing. Both Alternative A and Alternative B propose to close the PCAs to new Federal oil and gas leasing. The

text in Alternative A (which also applies to Alternative B) states:

Federal minerals within the State Game Commission-owned Prairie Chicken Area would be closed to new oil and gas leasing. For pooling purposes or drainage protection, new leasing with a NSO stipulation may be allowed within a Prairie Chicken Area provided exploration and development does not impact suitable habitat.

For pooling and drainage purposes, BLM would issue a new lease if, production from an adjacent lease or leases are draining the minerals under the tract and, with a no surface occupancy requirement, no additional surface disturbance would occur. This situation could occur in and around the PCAs (see Map B-5a). Buyers of these types of leases generally own the surrounding leases and realize no new surface disturbance would be approved in the PCAs.

16. COMMENT: *In Alternative A, the State Game Commission-owned Prairie Chicken Areas would be closed to new oil and gas leasing but the PCAs do not appear to be closed to new leasing in Alternative B.*

RESPONSE: The Fluid Minerals section of Alternative B begins with the following phrase:

“Alternative B is similar to Alternative A with the following differences:”

The Fluid Minerals section of Alternative B then describes the management prescriptions found in this alternative but not Alternative A. This section does not describe a management prescription in which the Federal minerals would remain open to new leasing in the PCAs.

Therefore, the PCAs are closed to new leasing in Alternative B. Also, see the Response to the previous Comment.

17. COMMENT: *The 75-decibel limitation on pumpjack motors is insufficient. Please consider the Farmington Field Office has established noise limits of 48 decibels.*

RESPONSE: The Farmington Field Office set the 48-decibel limit to deal with noise around human habitation, visitor use areas, camp or picnic areas, and recreation trails. The limit is prescribed within 100 feet of homes and 400 feet from noise sensitive areas. Noise is unlimited outside this prescription within the Farmington Field Office. By contrast the 75 db restriction is to be applied throughout the Planning Area and not just around noise sensitive areas.

18. COMMENT: *We suggest BLM consider an alternative that includes the Primary Population Area in the Core Management Area and close the combined area to new oil and gas leasing.*

RESPONSE: BLM has analyzed this scenario under Alternative C. Alternative C, Zone 1 includes the acreages for the Core Management Area and Primary Population Area, and would be closed to new oil and gas leasing.

19. COMMENT: *BLM should include consideration of Areas of Critical Environmental Concern (ACECs) as a subset of a broader conservation alternative which also considers the habitat needs of the sand dune lizard, other special status species and*

covers all of the Planning Area. None of the other alternatives besides Alternative E considers any new ACECs or special management areas.

RESPONSE: Other than the proposed ACEC analyzed in Alternative E, BLM received no nominations for ACECs, either from external sources or internal sources. As required by BLM planning regulations, BLM analyzed the impacts that might result from the ACEC designation in at least one alternative. The reasons for not designating the ACEC are found in Chapter 4. See pages 4-67 and 4-68 of the FEIS.

20. COMMENT: *The DEIS must address all special status species including but not limited to black-tailed prairie dog, swift fox, mountain plover, burrowing owl, Bell's vireo, gray vireo, ferruginous hawk, loggerhead shrike, Texas horned lizard, northern aplomado falcon and bald eagle.*

RESPONSE: BLM manages northern aplomado falcon habitat as if the species was designated "Proposed" species and is not required to consult or confer with the US Fish and Wildlife Service unless BLM's analysis results in a "may affect – likely to adversely affect" determination. A determination of "may affect – not likely to adversely affect" was made because the Planning Area is not in the historic range of the falcon. The bald eagle is not known to occur within the Planning Area. See Appendix 10 for the Biological Assessment and the Service's response.

The other special status species were addressed in the 1997 Roswell RMP/Carlsbad RMPA which cover the Planning Area and are thus incorporated.

21. COMMENT: *BLM has a duty under the Endangered Species Act to conserve threatened and endangered species, including the northern aplomado falcon and bald eagle. BLM should disclose what conservation measures will be implemented to recover these species.*

RESPONSE: See the Response to the previous Comment.

22. COMMENT: *BLM claims that it cannot refuse development of existing leases because “holders of existing oil and gas lease have valid rights for development of their leases.” See the DEIS at pages S-2 and 2-60. This contradicts a claim BLM made in Federal Court that it could at any time refuse an application for permit to drill if environmental conditions warranted it. The sand dune lizard is a candidate for listing under the Endangered Species Act and oil and gas development is a known, significant threat to this species. Denial of new wells and leases is clearly warranted in and near the occupied and suitable habitat of special status species.*

RESPONSE: BLM does not believe the statement quoted in this comment contradicts BLM testimony in Federal Court. As BLM argued in Federal Court, lessees have development rights but not absolute guarantees that their leases can be developed. A lessee has the right to use the leased tract subject to three things:

- Lease stipulations,

- Nondiscretionary statutes such as the Endangered Species Act or the National Historic Preservation Act, and
- Such reasonable measures as may be required by BLM to minimize adverse impacts to other resource values, land leases, or users, not addressed in the lease stipulations.

BLM controls surface disturbance on public land and can withhold approval of prospective well locations on existing leases. Prospective well locations are described in APDs and BLM routinely works with lessees to move prospective well locations to sites that minimize environmental impact prior to APD approval. In the rare situations when these negotiations reach an impasse, BLM can deny the APD.

The commenter appears to want BLM to treat the sand dune lizard as a species listed under ESA, but it remains a candidate species which is not eligible for full protection under ESA. Therefore, protection of sand dune lizard habitat is not a legal matter but a matter handled under BLM policy.

It is BLM's policy to manage public land and resources in such a manner so that it is not necessary to list the sand dune lizard. The purpose of this resource management plan amendment (RMPA) is to put into place management prescriptions that would avoid the necessity of listing either the sand dune lizard or the lesser prairie-chicken while allowing existing activities on public land to continue. BLM believes the implementation of this RMPA will accomplish this purpose.

LANDS AND REALTY

23. COMMENT: *Burying of electric power lines is a safety issue in sandy soils where wind erosion may expose these lines.*

RESPONSE: BLM is aware of the safety concerns, which is why burying power lines is an option for reducing habitat impacts, not a requirement. See the amended text on page 2-41.

24. COMMENT: *Why would a buried power line be no closer than two miles (measured from a lek) in occupied habitat and buried in all suitable habitat when there are no structures?*

RESPONSE: Most lesser prairie-chicken nesting and brood rearing occurs within 1.5 miles of a lek. This 1.5 mile radius around an active lek is occupied habitat and defined on page 51 of Appendix 2. The purpose of the prescriptions in this plan is to minimize activities within occupied habitat. The Robel disturbance distance for overhead electric power lines is .25 miles. An overhead line may be 1.5 miles from an active lek but the disturbance distance intrudes .25 miles into occupied habitat. BLM rounded off the distance from 1.75 miles from an active lek to 2.0 miles from an active lek for ease of administration. If an operator or his contractor proposes an electric power line within 2 miles of an active lek, one option would be to bury the power line. Alternative options for power line locations, as listed in the RMPA, may be feasible and would be evaluated in consultation with the proponent.

Suitable habitat is defined on page 51 of Appendix 2. Authorizing overhead lines

in suitable habitat would likely lead to the reclassification of an area as potentially suitable or unsuitable habitat. BLM has amended the text to clarify that power lines could be buried in suitable when the power line location is within 2 miles of an active lek.

25. COMMENT: *For existing power poles, apparatus could be installed that will dissuade raptors from perching on the poles. If necessary, colored balls could be installed on the power lines to improve visibility of the lines to minimize power line collisions.*

RESPONSE: Chickens avoid tall structures, including power poles, and the presence of power lines contributes to chicken habitat fragmentation. Raptor perching on power poles and collisions with the lines are only part of the fragmentation problem. Overhead power lines present an avoidance area of 0.25 mile on either side of the line that chickens avoid using. In the event power lines are removed and chickens reoccupy the area, if a power line is needed in that specific area in the future, BLM would consult with the applicant for the power line in order to avoid detrimental impacts to chicken habitat.

26. COMMENT: *When discussing power lines to be removed under the Power Line Removal Credit Program, we suggest using a common term throughout the document.*

RESPONSE: BLM agrees. The electric cooperatives use the term "idle" for power lines not being used and the text has been changed to use this common term.

27. COMMENT: *There are no provisions to receive a permit to construct a new power line should all idle lines be removed sometime in the future. What would be the procedure to obtain authorization to build a new power line?*

RESPONSE: Participation in the Power Line Removal Credit (PLRC) program is voluntary and the text in the document has been changed to reflect the option of removing idle power lines. The Preferred Alternative describes other methods of supplying electric power to well sites while reducing habitat fragmentation and a right-of-way applicant could be authorized to use any one of these methods in the event that all idle lines have been removed and all “banked” power line removal has been used.

28. COMMENT: *In regard to the PLRC, we agree that should we desire to build a power line in the Core Management Area, the Primary Population Area and the Habitat Evaluation Areas within the Isolated Population Area, the ratio of removing 1.5 miles of idle power line for the construction of one (1) mile of new line is a reasonable exchange; but, we believe where the Lesser Prairie Chicken is not present, we should not have to remove power lines before constructing a new line in this area. We feel that it is unfair and unreasonable to require companies to remove power line in order to construct new line within areas the BLM has classified as uninhabited areas.*

RESPONSE: The intent of the PLRC is to provide incentives to remove idle power lines in high priority habitat areas described in Appendix 6 and focuses on occupied and suitable lesser prairie-chicken habitat. A right-of-way applicant may elect to participate in the PLRC

program but there is no requirement to do so. BLM does not foresee a situation in which a right-of-way applicant would be required to remove idle power lines in unsuitable habitat. The Isolated Population Area (IPA) was included in the PLRC in order to provide management direction should occupied lesser prairie-chicken habitat be confirmed in the future. Recent occupancy surveys have sighted chickens in the IPA but active leks have yet to be confirmed.

29. COMMENT: *On page 2-12 the text infers that all pipelines 10 inches or larger must be placed in major rights-of-way corridors identified on Map U-1. Some transportation pipelines within the oil field are larger than 10 inches.*

RESPONSE: Based on this comments BLM has changed the text to refer to interstate utility corridors. The intent of designating these corridors is to comply with the Energy Policy Act of 2005.

30. COMMENT: *A 3,800-foot wide interstate utility corridor is extremely large and could have significant impact to these species in the form of a major barrier.*

RESPONSE: Congress directed BLM and the US Forest Service to develop this EIS in accordance with Energy Policy Act of 2005. This comment will be forwarded to the team developing the WWEC PEIS. An important point for readers to remember is the designation of interstate utility corridors applies only to those locations on public land. The 3,800-foot distance is an error and the correct distance is 3,500 feet. The width of 3,500 feet was selected in the West-Wide Energy Corridor Programmatic Environmental Impact Statement to allow for multiple energy transmission facilities and the text has been changed to indicate that distance. This distance

represents the largest width these corridors would occupy, however, they could be narrower to accommodate other issues and concerns.

The impacts associated with these corridors were analyzed in Chapter 4 of the Special Status Species RMPA/EIS. The corridors depicted on Map U-1 that cross the Planning Area follow existing pipelines and are designated as pipeline only.

31. COMMENT: *In Alternative B, BLM states that no new surface disturbance associated with rights-of-way would be allowed in dune complexes within the sand dune lizard habitat area (see Map B-1). Instead of “dune complexes”, the text should be change to “within occupied sand dune lizard habitat.” Those that do not know the area will think that everything inside the green line on Map B-1 is sand dune lizard habitat.*

RESPONSE: BLM understands the Sand Dune Lizard Habitat area contains many acres that could be developed for oil and gas without impacting occupied and suitable sand dune lizard habitat. It was not BLM’s intent to portray the Sand Dune Lizard Habitat area depicted by the green line on Map B-1 as contiguous occupied or suitable habitat.

The intent of Alternative B is to provide more sand dune lizard habitat protection than the other alternatives and allow opportunities for expansion of sand dune lizard populations from occupied habitat into suitable habitat. The suggested text change would not allow opportunities for lizard populations to expand into suitable habitat. The text goes on to state exceptions to this requirement would be considered on a case-by-case basis on the proposed surface use and proposed mitigations indicating the proposal would not adversely affect the local lizard population. BLM would consider these uses in lizard habitat (i.e. pipelines) if it is thought that the potential occurs to assist in dispersal corridors for lizards.

OIL AND GAS LEASING AND OPERATIONS

32. COMMENT: *Various alternatives put forth by the BLM call for the submittal of a plan of development (POD) at the time of lease award. Such PODs would be the end product of proprietary industry processes and the public release of such information would give improper knowledge/advantage to a company’s competitors. Instead the BLM should in its process assume that the entire lease is going to be developed on the smallest regulated spacing (40 acres).*

RESPONSE: Chapter 2 contains the following statement: “Plans of Development (POD) may contain proprietary information which would prohibit its disclosure under the

Freedom of Information Act.” This statement is common to all alternatives.

Plans of Developments (PODs) are used to ensure the orderly development of the entire lease. PODs include the number and placement of roads, pads, power lines and other facilities used for exploration and development of resources for the entire lease, which may or may not include drilling every 40 acre spacing unit within the lease. By working together to develop a POD, the lessee and BLM will be able to minimize conflicts between mineral development and other resources.

33. COMMENT: *Deviated drilling is not necessarily the best solution to*

always avoid resource conflicts. This application is limited in use and will significantly increase the cost and surface impacts.

RESPONSE: To meet the objectives of the Resource Management Plan Amendment, some lands within the Planning Area are protected from surface impacts. This protection would restrict or deny direct (vertical) drilling and the associated surface use of some lands within the Planning Area. Directional (deviated) drilling is an exploration and development tool for lands that are within protected habitat.

34. COMMENT: ***On page 2-13 right hand column third paragraph last sentence "If the use of plastic pipe is approved, the pipe must meet American Petroleum Institute specification". We suggest rewriting the sentence to say that if plastic pipe is approved the manufacturers specification rating of the pipe must meet the intended use of the pipe (pressure, temperature, etc).***

RESPONSE: Based on the comments received BLM has revised the text as follows: *"If the use of plastic pipe is approved, the pipe must meet American Petroleum Institute specifications or equivalent standard specifications and intended use from pipe manufacturer."*

35. COMMENT: ***Page 2-21 right hand column last paragraph The CMA in its entirety and occupied lesser prairie chicken habitat in the PPA, SSPA, and IPA would be closed to new leasing of Federal Minerals until such time that the special status species are not considered for listing as a threatened or endangered species". This will probably never happen. We ask that BLM consider rewriting the***

sentence to allow leasing in the SSPA and IPA areas with a NSO stipulation.

RESPONSE: BLM has already included the management flexibility requested by this comment. Page 2-21 starts the General Description of Alternatives and details of the alternatives follow later in the chapter. Page 2-21 states the following: "Where deemed appropriate, exceptions to no new leasing may be allowed if habitat studies show drilling and exploration would not impact lesser prairie-chicken and/or sand dune lizard habitats and to avoid potential drainage situations."

On page 2-33, the requirements for new leasing in the SSPA and the IPA include: "New leasing with a NSO requirement may be allowed, where this is determined to be appropriate, i.e., pooling or drainage protection that does not impact suitable habitat."

36. COMMENT: ***On page 2-42 middle of page "Unitization may be required on new leases in the Planning Area to ensure protection of special status species habitat as allowed by lease notice." Unitization may not be appropriate in the planning area for new leases as there are probably not any large blocks of unleased lands that would lend themselves to unitization.***

RESPONSE: Unitization is an option that would provide for the orderly development of lands included within several federal leases and adjacent state and private lands. Unitization would also provide protection from drainage of federal mineral resources. Based on comments received BLM has revised this sentence to state: "Unitization may be utilized on new leases in the Planning Area to ensure protection of special status species habitat; as allowed by lease notices."

37. COMMENT: *On page 2-14, 1st Para – 2nd sentence, we suggest deleting references to reserve pits. Reserve pits are temporary and are closed once fluids have been removed, dried and then the pits are closed.*

RESPONSE: Based on comments received BLM has revised this section to more accurately portray its intent. The sentence now states: “Regulation of pits falls under the jurisdiction of the New Mexico Oil Conservation Division. Open-top tanks, disposal pits, or other open pits would be required to be covered with a fine mesh netting to make them inaccessible to birds, bats and other wildlife.”

38. COMMENT: *The DEIS estimates direct impacts on 4,900 acres of habitat and indirect impacts on 123,480 acres of habitat over the life of the 20-year plan. See DEIS at pp. 4-38 to 4-39. The DEIS also acknowledges that reclamation is very slow. It is therefore difficult to ascertain how this plan would prevent the sand dune lizard and lesser prairie-chicken being listed as threatened or endangered.*

RESPONSE: Approximately 72 percent of the Federal minerals in the Planning Area are already leased. Furthermore, a large percentage of the leased lands are held by production. Most of the estimated impacts would occur on lands that are already impacted (see Map 2-2)

BLM will use all available procedures and methods to minimize the impacts of development through the use of COAs, BMPs, and PODs. Included in these BMPs are practices that include minimizing the size of well pads, using interim reclamation during the life of the well, reducing the size and number of roads, reclaiming lands at a 2 to 1 ratio

and utilizing proactive restoration programs.

39. COMMENT: *The designation of a Core Management Area (CMA) appears to be temporary and subject to exceptions. See DEIS at p.2-21 to 22. In addition, the 17 Habitat Evaluation Areas will be closed to new leasing only until the completion of an evaluation to determine whether they should remain closed or be opened.*

RESPONSE: Page 2-21 starts a general description of alternatives and details of the alternatives follow later in the chapter. Under the preferred alternative, the Core Management Area is closed to new leasing until the special status species are no longer warranted for listing. If new leasing is considered, conditions would be attached that would preclude listing the special status species as threatened or endangered. Where deemed appropriate, exceptions to no new leasing may be allowed if habitat studies show drilling and exploration would not impact habitat and to avoid potential drainage situations.

The 17 Habitat Evaluation Areas within the IPA would be closed to new oil and gas leasing until these areas can be evaluated. The evaluation is to determine suitability for habitation by the special status species. Depending on the results, unleased tracts would be either leased or remain closed to new leasing.

40. COMMENT: *It is unclear whether these lands (CMA and Habitat Evaluation Areas) are included in the 221,456 acres characterized as closed to oil and gas leasing in Table 2-1. See DEIS at p. 2-23. The DEIS therefore fails to disclose which, or how much, of these evaluation areas and how much total acreage in the planning area will be open to leasing.*

Thus the public cannot ascertain the full environmental consequences of the proposed alternative.

RESPONSE: Table 2-6 shows acres of leased and unleased lands in the planning area under the preferred alternative. Currently, there are 319,997 acres of unleased Federal minerals in the planning area, of which 221,456 acres would be closed to new leasing. The remaining 98,521 acres of currently unleased Federal minerals would be available for new leasing in the Planning Area. This does not include unleased lands within the 17 Habitat evaluation areas.

41. COMMENT: *We urge the closure of more areas to new leasing, particularly given that large proportions of the CMA (74%) and the Primary Population Area (47%) are currently unleased. See DEIS at p.2-31. This is particularly important given that it is unlikely that in some instances even No Surface Occupancy (NSO) stipulations will not be sufficient to eliminate the impacts of oil and gas activities on special status species.*

RESPONSE: Under the preferred alternative, 69 percent of the available unleased lands in the Planning Area would be closed to new leasing. This includes all unleased acreage in occupied habitat throughout the planning area and the unleased acreage of suitable habitat in the Core Management Area and Primary Population Area. BLM believes this unleased acreage, coupled with the lease stipulations proposed by this DEIS sufficient to meet the goals and objectives of this plan. The USFWS in their letter dated January 18, 2007 (reference Cons. #22420-2007-TA-0033, see Appendix 10) stated the following:

We have reviewed the subject DRMPA/EIS and support the BLM's selection of Alternative B as the Preferred Alternative. If implemented as described in the DRMPA/EIS, we feel that these activities will provide protections to LPC and SDL in occupied and suitable habitats; reclaim abandoned well sites; improve potentially suitable habitats; and provide additional improvements to grazing lands within the planning area. All of these activities could benefit the LPC and/or SDL, as well as many other species within the planning area, and we commend the BLM for this proactive plan to improve the status of these candidate species.

42. COMMENT: *The proposed alternative also allows development 200 meters from existing leks (See DEIS at p. 2-63), despite the inadequacy of this buffer from preventing disturbance to lesser prairie-chickens.*

RESPONSE: The table at page 2-63 is a summary table and is not intended to list all details regarding habitat protection. The 200 meter buffer is extrapolated from the Table 2-4, Robel Impact Distances. The 200 meter buffer is used in conjunction with the timing and noise stipulation to protect active leks.

43. COMMENT: *On page 2-35, 3rd bullet, BLM needs to allow for flexibility in the reclamation process. As a result of reclamation, advancing technology, and species monitoring, the practice of removing caliche surfacing may not be needed in the future.*

RESPONSE: BLM agrees flexibility and monitoring is necessary in reclamation practices within the Planning Area. BLM also acknowledges the best management practices will change over time as experience accumulates. Removing caliche from abandoned oilfield roads and well pads, however, will likely be a feature of reclamation for some time. BLM has monitoring data and photographs of caliche roads and pads that were ripped and seeded 15 to 20 years ago. The areas treated in this manner still do not support Desired Plant Community vegetation.

44. COMMENT: *Operators should receive acreage credits for reclaiming or enhancing suitable habitat and then benefit from fewer stipulations or conditions (reducing the no-drilling time periods, reduce the distance for occupied or suitable habitat) of approval for creating enhancing, or reclaiming suitable habitat.*

RESPONSE: Lessees are responsible for reclamation under the standard terms of their lease. Reducing the number of lease stipulations or conditions of approval, or reducing the restrictions on industry operations as suggested by the comment would be counter productive to the management goals of both Alternative A and Alternative B.

45. COMMENT: *On page 2-35, BLM should not close the entire Core Management Area to the sale of mineral materials. Not all the acres within the CMA are chicken habitat and there should be opportunities to use the gravelly soils for development of existing oil and gas leases within the CMA.*

RESPONSE: Based on the comments received BLM has changed the text to

state: "In the CMA no new mineral material sites would be authorized in occupied or suitable prairie-chicken habitat."

46. COMMENT: *On page 2-34, under IPA Existing leases, we suggest inserting "based upon habitat condition" when plans of development (PODs) are requested.*

RESPONSE: Within the Planning Area there would be numerous reasons for BLM to request a POD in addition to habitat conditions. Rather than burden the text with lists of conditions or a combination of conditions that might lead to request for a POD, BLM has chosen to leave the text unchanged.

47. COMMENT: *On pages 2-32 and 2-33, Primary Population Area – New Oil and Gas Leasing discusses lands closed to oil and gas leasing and that BLM would determine if habitat is suitable or unsuitable prior to issuing a new oil and gas lease. No timeframe are given for doing the determination. We would ask that BLM consider that these lands be open to leasing with a buyer beware stipulation or NSO stipulation attached to the lease that would not guarantee there would be any well locations within the lease.*

RESPONSE: Occupied, suitable, potentially suitable and unsuitable habitat in the Primary Population Area has already been determined and mapped. See Map B-5 and Map B-5A. When and under what conditions BLM would allow new leasing in occupied and suitable habitat within the PPA are specified in Alternative A and Alternative B.

48. COMMENT: *We recommend directional drilling requirements on existing leases in lizard or chicken habitat or denial of new well permits when directional drilling will not sufficiently eliminate adverse impacts.*

RESPONSE: To meet the objectives of the Resource Management Plan Amendment, some lands within the Planning Area are protected from surface impacts. This protection restricts or denies direct (vertical) drilling and the associated surface use of some lands within the Planning Area. Directional (deviated) drilling is an exploration and development tool for lands that are within protected habitat. See also the Response to Comment #22.

49. COMMENT: *There should be no further energy developments on this vegetation type until lesser prairie chicken populations have had a chance to recover. Recovery should be defined as enough population that can sustain itself and the habitat can be considered suitable and occupied for management reasons.*

RESPONSE: Approximately 72 percent of the Federal mineral acreage in the Planning Area is held by existing mineral leases. Stipulations and conditions of approval are used to protect occupied and suitable habitat on these leases throughout the planning area. Approximately 69 percent of the available unleased Federal mineral acreage in the Planning Area would be closed to new leasing. The remaining 31 percent of the unleased Federal mineral acreage is primarily unsuitable habitat.

50. COMMENT: *We recommend that new energy developments be allowed*

to proceed at a 1 to 1 ratio of unsuitable lesser prairie chicken habitat developed to disturbed suitable habitat reclaimed.

RESPONSE: Best Management Practices (BMPs) are used throughout the planning area. One goal of the BMPs is to reclaim or restore habitat at a 2 to 1 ratio throughout the planning area. Included in the BMPs are practices and processes that minimize surface impacts from mineral exploration and development. An important component of the BMPs is active reclamation of a site while the facility is in use, followed by restoration of the site once the facility becomes inactive.

BLM does not have the authority to require reclamation of a site or facility for which the operator is not responsible. There are other administrative procedures (bonds, cooperative agreements, etc.) that may be established to achieve a 1 to 1 ratio of reclaimed habitat in the Planning Area.

51. COMMENT: *Stipulated energy leasing should be allowed such that the future energy development footprint in the area on lands administered by the BLM will not exceed the existing development footprint.*

RESPONSE: Best Management Practices (BMPs) shown in Appendix 5 are used throughout the planning area to minimize surface impacts from mineral exploration and development. The BMPs include such practices as minimizing well size pad and reducing the number of roads used to access facilities. Where required to protect habitat, a No Surface Occupancy stipulation is attached to new leases.

52. COMMENT: *BLM should require that roads needed for energy exploration and development to be built only to a standard that results in fewest impacts on lesser prairie chicken habitat.*

RESPONSE: Best Management Practices are used throughout the planning area to minimize impacts to habitat. Among the practices used are reducing the number of roads, building

the shortest roads possible and utilizing existing road networks. BMPs also select road routes that would create less overall surface disturbance. Road surfacing should be limited to soils and topography that require additional surfacing to reduce soil erosion. As a general rule, if roads require surfacing, then the minimum compacted layer of surface material should be applied. It is BLM's goal to have the minimum road built that safely meets access objectives.

SOIL, WATER, AIR, AND FLOODPLAINS

53. COMMENT: *We are concerned about impacts from noxious emissions and greenhouse gases from oil and gas and livestock grazing on special status species, along with contributions from those sources to the climate crisis. The DEIS fails to address these concerns. See DEIS at p. 2-64.*

RESPONSE: The discussion of impacts to air quality by these activities is found in Chapter 4 (see page 4-8 of Proposed RMPA/Final EIS). BLM is in compliance with national and State air quality standards and will cooperate with the State of New Mexico in carrying out its implementation plans. Currently, there are no regulations applicable to climate change, although there is much discussion regarding potential carbon emissions.

54. COMMENT: *There are concerns with using the words preventing or avoiding in the following sentence: "BLM's soil and watershed program places emphasis on preventing or avoiding further degradation of soil and water resources, as well as their conservation." We suggest substituting "minimizing" in the place of "preventing or avoiding."*

RESPONSE: The use of the phrase "prevent or avoid" is based on existing BLM Manuals 7000 and 7200 as well as program guidance. The 1997 Roswell RMP/Carlsbad RMPA uses this phrase and since this DEIS proposed no changes in management prescriptions, the prescriptions found in those RMPs for both soils and watershed were carried forward.

55. COMMENT: *On page 3-5, Under Water Resources, please cite the source for the impacts to ground water.*

RESPONSE: The New Mexico Oil Conservation Division's (NMOCD) Generalized Record of Ground Water Impact Sites report (September 30, 2005) lists active and inactive sites regulated by the NMOCD, Environmental Bureau, that are known to have groundwater that has been contaminated from leaks, spills, and releases of oilfield wastes or products which occur in the area.

56. COMMENT: *On page 4-3 discusses degradation of surface water and impairment of floodplains due to oil and gas development. What impacts on these resources by other uses of public land?*

RESPONSE: Based on this comment the text was changed to state: “*Surface disturbance in the Planning Area can result in degradation of surface water quality and groundwater quality from non-point source pollution, increased soil losses, and increased gully erosion*”

and “*Surface disturbance in the Planning Area can result in impairment of the floodplain values from removal of vegetation, removal of wildlife habitat, impairment of water quality, decreased flood water retention, and decreased groundwater recharge.*”

VEGETATION

57. COMMENT: *Page 2-47 mentions targeting various areas for treatment to enhance habitat. This is fine as long as development is not restricted just in case the BLM has plans to hopefully improve unsuitable to suitable habitat. This could take many years and is a big unknown.*

RESPONSE: This paragraph reiterates that Alternative B will focus on special status species habitat enhancement throughout the Planning Area, not just in suitable or occupied areas. Habitat enhancement will be considered throughout the Planning Area, if such treatments can improve the habitat. After careful consideration of site potential and treatment type, a project may be implemented to carry out the objectives of this plan. BLM does not foresee any restriction to development in areas that may be treated sometime in the future.

58. COMMENT: *There are concerns with focusing on herbicide use, failure to acknowledge adverse environmental impacts of the use of herbicides, and failing to consider other methods of vegetation treatment.*

RESPONSE: While a portion of the DEIS discussed herbicide use, it does not focus on herbicides as the only tool for vegetation treatment. Instead, treatment with herbicides is recommended only when habitat goals cannot be achieved by other means and

treatment is recommended when necessary to achieve vegetative standards (see page 2-36). BLM uses chemical treatment when brush invasion has reached the point that techniques such as long term rest, mechanical control, or prescribed fire are not effective. Toxicity concerns and long term adverse impacts have been analyzed in the Vegetation Treatment on BLM Lands in Thirteen Western States EIS and site specific EAs, and impacts are mitigated using proper application rates and methods.

59. COMMENT: *On page 2-48, it is stated that Shinnery oak treatments would follow guidelines described under Alternative A, with one exception. The requirement that dispersal corridors of untreated shinnery oak flats at least 500 meters wide should be retained between suitable habitats, both occupied and unoccupied, that are separated by less than 200 meters, would be dropped. We believe this would be detrimental to the conservation and persistence of the sand dune lizard and lesser prairie-chicken in the planning area and therefore the state. In addition, we feel the DEIS could be considered misleading in that the above proposal appears only once on page 2-48 and is not identified elsewhere.*

RESPONSE: BLM agrees that these dispersal corridors are important to the recovery of the sand dune lizard and as

such need to be protected. Therefore, the statement relative to retaining sand dune lizard dispersal corridors will be changed in Alternative A to read less than 2000 meters and the paragraph saying this will be dropped will be removed from Alternative B. Alternative B will now mirror the guidelines for chemical control of shinnery oak outlined in Alternative A.

60. COMMENT: *Research has shown that treatment of shinnery oak with herbicides has not been beneficial to lesser prairie-chickens, especially when it followed by intensive livestock grazing. Past herbicide treatment in areas managed with intensive livestock grazing systems resulted in little if any ground cover and almost no desirable ground vegetation. If herbicides are used to control shinnery oak, we recommend treatments be designed to only reduce the density of oak. We also recommend that areas dominated by shinnery oak be managed as a mosaic of treated and untreated areas.*

RESPONSE: The DEIS does not prescribe the eradication of shinnery oak. Instead, it recommends a reduction of shinnery oak to a level of 40 percent composition, which is consistent with Desired Plant Community prescriptions. Therefore, shinnery oak habitats will not be eradicated. Instead, shinnery oak composition within existing habitat patches will be reduced to reflect those stated in Desired Plant Community objectives. In a typical treatment, features such as water locations, booming grounds, or other leave areas are buffered out and not treated, resulting in a mosaic effect across the landscape. After treatment to reduce shinnery oak, livestock grazing will not be allowed in these areas for two

growing seasons or until grasses have recovered to meet Desired Plant Community objectives. When grazing is resumed, utilization levels will be designated to leave enough grass cover to meet special status species needs. Generally, utilization will not exceed 45 percent of current year's growth.

61. COMMENT: *There is a lack of a consistent scale at which decisions will be made to treat shinnery oak habitat to improve habitat for the Lesser Prairie Chicken. The comment centered on two points, using a threshold of 40% shinnery cover by composition and at what scale treatments would occur. How appropriate is using relative cover as a metric when the reduction of grasses and forbs by livestock or drought conditions in a given area can change the relative composition of shinnery oak without it having increased. The issue of scale for treatment size centered on treatments continuing at a smaller and smaller scale until shinnery oak habitats have been fragmented into smaller and smaller patches.*

RESPONSE: The DEIS does not prescribe the eradication of shinnery oak. Instead, it recommends a reduction of shinnery oak to a level of 40 percent composition. Therefore, shinnery oak habitats would not be fragmented into smaller and smaller patches. Shinnery oak composition within existing habitat patches would be reduced to reflect those stated in Desired Plant Communities objectives. As to the scale of treatment, these projects are usually designed at the pasture level. An average treatment size is 2,500 to 3,000 acres. Non-target areas, such as occupied habitat, watering locations, etc. are avoided by 200 meters.

BLM uses a composition by cover method that records the next nearest perennial plant. This eliminates the fluctuation of relative cover caused by annual plant response to precipitation. An overview of long term monitoring studies shows shinnery oak composition remaining relatively constant. Grasses such as bluestems and dropseeds had composition fluctuations from five to 13

percent. These figures come from studies conducted for over twenty years to incorporate effects of precipitation and different grazing practices. BLM believes the method currently used to obtain cover by composition values is the least susceptible to large changes that can be caused by dry or wet years and more closely reflects existing composition than other techniques.

LIVESTOCK GRAZING

62. COMMENT: *Will the vegetative requirements (primarily nesting habitat) for the lesser prairie-chicken be used as parameters to evaluate the Standards for Public Land Health? If so, the decisions of meeting the Standards may change and we would value that as a high concern.*

RESPONSE: The vegetative requirements (primarily nesting habitat) for the lesser prairie-chicken will continue to be used as one parameter to evaluate the standards. This has been done prior to the Resource Management Plan Amendment and would have continued even without the Amendment. There will be no more emphasis placed on this indicator than any other; each indicator contributes equally towards a Standards Determination. In addition, the determination indicates if additional information (monitoring) is needed to identify the cause of the resource problems. In the Pecos District, the existing long term rangeland monitoring program will continue to be used to decide if a grazing management change is warranted and what type of change it will be. This will involve consultation, coordination, and cooperation with the grazing permittee and other interested publics.

63. COMMENT: *On page 2-17, delete fence exclosures around lesser prairie chicken booming grounds.*

RESPONSE: BLM agrees that fences around lesser prairie chicken booming grounds could be detrimental to these birds. The paragraph in question discusses techniques to improve special status species habitat and is intended to outline various methods to protect or enhance this habitat. While the statement was not meant to say booming grounds will be fenced, it can be interpreted as such. The following statement will be added: "If it is determined that a booming ground needs to be fenced, mitigation measures such as anti-perching structures and fence markers would be used."

64. COMMENT: *All pastures with 25% or more shinnery be rested 12 months at a time for one year out of three*

RESPONSE: On smaller allotments in "shinnery country", this type of rest could remove a large part of the allotment from use, putting a financial burden on the permittee. For example, on a six pasture allotment, with all six pastures having greater than 25 percent shinnery, in any given year two pastures would

have no livestock in them. One third of the allotment would not be grazed. As an alternative, following a grazing scheme that provides growing season rest in two or three pastures would allow grasses needed for nesting/rearing cover to be produced. These pastures could then be grazed in the dormant season, after chicks have been hatched. Utilization levels during this dormant season use would be set to provide enough standing cover for rearing habitat. This type of use can be particularly effective by focusing the growing season rest in pastures that have occupied habitat or are adjacent to occupied habitat.

Another grazing scheme that can enhance recovery is allowing pastures to be stocked lightly, at a use level of no more than 30-35 percent for example. This would provide necessary habitat requirements and keep the permittee in business. Not all pastures with this amount of shinnery may have lesser prairie-chicken potential, so total rest for a year may not be needed. Not all pastures may be stocked at a level to reduce nesting/rearing cover. Also, during dry spells, many permittees voluntarily reduced numbers, which helps achieve the nesting/rearing cover requirements.

By following grazing systems that provide growing season rest in critical pastures and prescribing use levels that meet habitat requirements, grazing use can continue while enhancing lesser prairie chicken recovery. A blanket grazing requirement that any pasture with greater than 25 percent shinnery being rested 12 months in a row one year out of three is burdensome on the grazing permittee and may or may not enhance nesting/rearing success.

65. COMMENT: *What is the total number of AUMs that would be reduced in the Planning Area?*

RESPONSE: There are several different numbers that could answer the question above, each related to one of the Alternatives. These are discussed below:

No Action - 638 cows (see discussions on page 3-17, where the potential reductions are based on impacts to livestock numbers in the 1999 EIS for Standards Assessments)

Alternative A - a low end of 836 cows (see discussion on page 3-17, based on voluntary non-use already taken in the Roswell Field Office) and a high end of 1,672 cows (based on the same adjustments being implemented in the Carlsbad Field Office as were implemented in the RFO)

Alternative B - same as A

Alternative C - same as A

Alternative D - 836 cows (based on voluntary non-use reductions already taken in occupied habitat in the RFO and no additional adjustments in Carlsbad Field Office since there is no occupied habitat)

Alternative E – 638 cows in the Planning Area outside the proposed ACEC and 3,043 cows for five years within the moratorium area of the proposed ACEC. (See discussions in Chapter 4.)

The numbers above are an attempt to give a reasonable range. Actual changes would depend on monitoring study data, Robel data, and Standards Assessments. Also, the amount and timing of precipitation may reduce or increase the numbers.

66. COMMENT: *The DEIS would preserve the present grazing regime.*

RESPONSE: BLM disagrees and believes the DEIS would not necessarily maintain existing livestock grazing

systems on allotments within the Planning Area. Each field office in the Planning Area already has planning documents covering rangeland monitoring, livestock adjustments based on monitoring, and assessments of Rangeland Health. If monitoring or assessments indicate a change in livestock grazing is needed to protect special status species, or to meet Rangeland Health Standards, then the present regime would change. Typically, these changes are pursued first through negotiation and concurrence with the grazing permittee/allottee, which can be considered voluntary. If a range use agreement cannot be reached, then a decision is issued, which is a mandatory change.

67. COMMENT: *Alternative A states voluntary conservation actions would also be monetarily compensated by the BLM. Grazing on public lands is a privilege, not a right, necessary grazing reductions should be mandatory, and not provide additional revenue to permittees.*

RESPONSE: Alternative A does not make this statement. Alternative A discusses compensation for voluntary conservation action and on page 2-38 states that the BLM has no such program currently, but funding may be provided by other private, State, or Federally funded programs. Alternative A further states these programs may offset some of the conservation costs.

68. COMMENT: *Livestock grazing and related infrastructure (e.g., fencing) is a significant threat to lesser prairie-chickens, not addressing this threat is a fatal flaw of the document, and BLM concludes, without basis, that no long term*

impacts are expected as a result of the livestock grazing program as proposed. See DEIS at p. 4-11.

RESPONSE: To date, neither field office has received a documented report of fence induced mortality to chickens. A dataset from Sutton Avian Research Station in New Mexico shows that fence and power line collisions account for only 14 percent of the mortality in Roosevelt County, New Mexico (GMSARC unpublished data, Donald H. Wolfe October 16, 2003).

On page 4-11 the DEIS concludes no long term impacts are expected as a result of livestock grazing, “as proposed.” The DEIS proposes a continuation of monitoring, implementation of livestock adjustments (changes in numbers and/or grazing schemes), and based on this monitoring, treatments to the landscape to achieve Desired Plant Community. The combination of these would lead to no long term negative impacts to lesser prairie-chickens.

69. COMMENT: *BLM should conduct the Standards Assessments more vigorously across the planning area. We recommend livestock grazing be suspended in lesser prairie-chicken nesting areas for five years, while all grazing allotments in the planning area undergo assessment.*

RESPONSE: To complete assessments on all allotments in the planning area in the same five year period would be difficult, given existing priorities, staff, and budget. However, even without the DEIS, BLM can alter livestock grazing practices at any time if it is determined a change is needed. A five-year grazing moratorium was analyzed in Alternative E.

WILDLIFE, INCLUDING SPECIAL STATUS SPECIES

70. COMMENT: *The DEIS states the 17 Habitat Evaluation Areas (HEAs) within the Isolated Population Area these areas would be prioritized for reclamation potential and for potential to re-established connectivity to adjacent isolated habitat clocks. Until the evaluation of an area is complete, new oil and gas leasing would be deferred. BLM should establish reasonable timeframe to conduct the evaluation of these 17 areas and consider leasing these lands with a NSO stipulation. If at a later date after the evaluation is completed it is determined that there are drilling location within this area the stipulation can be waived.*

RESPONSE: An HEA meeting the criteria in Appendix 8 would constitute an Area that could be closed for leasing or leased with an NSO where appropriate. The evaluation of the 17 HEAs has not been completed.

Priority areas by name, year and acres:

HEA Name	Total Acres	Unleased Federal Minerals Acres
Eunice (Year 1)	7,661	530
Skeen (Year 1)	2,939	0
QP-A (Year 1)	7,595	160
QP-C (Year 1)	3,097	0
Southpaw (Year 1)	3,054	180
Bilbrey (Year 1)	5,328	1,080
WIPP (Year 2)	24,738	12,984
Mills (Year 2)	2,585	160
QP-D (Year 2)	1,972	0
QP-F (Year 2)	2,909	1,264
QP-B (Year 2)	598	0
Mescalero Sands (Year2)	9,347	520
Pearl (Year 3)	3,234	1,520
San Simon (Year 3)	10,702	2,680
Loco Hills (Year 3)	8,839	160
Paduca (Year 3)	15,167	2,480
Laguna (Year 3)	3,289	360
TOTALS	113,053	22,558
Year 1 = 6 HEAs= 29,674 acres; Year 2 = 6 HEAs= 42,148 acres; Year 3 = 5 HEAs= 41,230 acres.		

71. COMMENT: *On page 2-17 the DEIS states: "Surface disturbance would not be allowed on public land within known prairie dog towns or towns identified in the future." We suggest adding the word "active" between the words within and known.*

RESPONSE: This text cited is a direct quote from existing land use plans. BLM has identified and mapped active prairie dogs towns within the Pecos District. BLM has always inferred active prairie dog towns when applying this prescription.

72. COMMENT: *On page 2-26, insert "active" leks at the time of permitting. There are numerous leks that were active at one point in time have not been active since. If the lek has not been active within the past two years then the 200 meters is not necessary.*

RESPONSE: Page 2-26 is part of the No Action Alternative and describes current management. This portion of the text is taken directly out of existing plans. Inserting "active" would change No Action and would not, therefore, be an accurate representation of existing plans or serve as a baseline for comparison with other alternatives.

73. COMMENT: *Existing timing stipulations within the Planning Area would continue to protect lesser prairie-chickens during the spring mating period and nesting phase. No scientific data was presented in the Draft RMP/EIS to justify the increase of the timing stipulation by fifteen days to the beginning of March in Alternative B. Female lesser prairie-chickens attend leks typically from late March to May and the nesting phase extends through May and early*

June (Giessen 1998, Bidwell et al. 2001), therefore the increase in the timing stipulations is completely unnecessary and will be highly disruptive for the industry in planning for and carrying out the long term, capital-intensive process of lease acquisition and development.

RESPONSE: There is information that shows that male chickens start to congregate at the lek in late February to establish dominancy and a hierarchy for mating. The timing limitation is justified in allowing males to congregate in areas that are used as leks. BLM has taken a stance to extend the timing stipulation to March 1st in Alternative B to afford protection to the males at the lek locations to establish the breeding hierarchy.

74. COMMENT: *Timing and noise stipulations should be imposed only in areas where lesser prairie-chickens are present, as indicated by sightings or survey reports within a period of 2 years.*

RESPONSE: The DEIS states in Alternatives A and B the timing and noise stipulation would be applied in areas where chickens are present based on survey data, 2 years for sightings. Alternative B adds a five-year period for active leks.

75. COMMENT: *There is support for the captive propagation and reintroduction program of lesser prairie-chickens with the exception of the use of potash enclaves as potential breeding facilities and lesser prairie-chicken reserve areas for the reintroduction of this species. The oil and gas industry has been working with BLM in the past twelve years in establishing concurrent operations between oil and gas and potash deposits within the designated potash areas to maximize the recovery of both resources. Using the potash enclaves as part of this program will add more complexity to these negotiations.*

RESPONSE: BLM appreciates the support for a captive propagation program. The DEIS, however, simply states BLM support for

propagation and transplanting lesser prairie-chickens within the Planning Area. The DEIS does not discuss prospective release locations. Decisions regarding prospective release locations would be made in the future after consultation with other Federal and State agencies, local governments, affected land owners and private industry.

76. COMMENT: *No definition for suitable sand dune lizard habitat was found under Alternative B and, therefore, it is uncertain which definition was used to designate the lizard habitat area under the preferred alternative. The only definition found in the DEIS was in the Working Group conservation Strategy (Appendix 2) on page 127 states: "suitable habitat is any mosaic of shinnery oak dune habitat types within 20 km (12.4 miles) of an occupied site measured from the outer edge of that contiguous habitat site." The use of 20km in the mapping of dune areas is erroneous making it absolutely necessary to reevaluate the current proposed lizard habitat boundaries.*

RESPONSE: BLM agrees the 20km distance is problematic and did not include this definition of either Alternative A or Alternative B. Alternative B focuses on dune complexes instead of the definition found only in Appendix 2. By focusing on dune complexes BLM's intent is to apply protective measures only where necessary.

It was not BLM's intent to portray the Sand Dune Lizard Habitat area depicted by the green line on Map B-1 as contiguous occupied or suitable habitat. BLM understands the Sand Dune Lizard Habitat area contains many acres that could be developed for oil and gas without impacting occupied and suitable sand dune lizard habitat.

77. COMMENT: *The definition of occupied lesser prairie-chicken habitat is listed in the DEIS as being all areas within 1.5 miles of an active lek site, regardless of vegetation. Also, upon discovery of previously unknown active sites, the surrounding 1.5 mile radius circle is considered occupied habitat. Timing restrictions should be imposed on a much smaller area (such as ¼ mile from the lek) from mid-March to June 1 with daily operational restrictions (no operations or human presence until after 9:00 am) to provide sufficient opportunities to use and develop oil and gas resources. The implementation of this definition will have a negative impact upon exploratory and in-fill development opportunities. It is important to remember that fifty percent of the natural gas produces today comes from wells drilled in the last four years.*

RESPONSE: The definition of occupied habitat in association to a lek or sighting was agreed upon by the members of the Working Group which included representatives of environmental organizations and the petroleum industry. The 1.5-mile distance was based on nesting studies performed in Kansas, New Mexico, and Oklahoma.

78. COMMENT: *Alternative B, Sand Dune Lizard – New Oil and Gas Leasing. The sand dune lizard habitat boundary covers a large amount of land that is not considered shinnery oak dune habitat. We believe that BLM needs to further evaluate this boundary and only include within the boundary lands that are considered shinnery oak dune habitat.*

RESPONSE: It was not BLM's intent to portray the Sand Dune Lizard Habitat area, depicted by a green boundary line (see Map B-1), as contiguous occupied or suitable habitat. BLM understands the Sand Dune Lizard Habitat area contains many acres that could be developed for oil and gas without impacting occupied and suitable sand dune lizard habitat.

79. COMMENT: *According to the DEIS, predator control will continue unchanged under the proposed alternative (and all of the alternatives considered). See DEIS at p. S-11. This will likely harm and further imperil the Swift Fox. BLM should disclose these impacts and consider alternatives which decrease or eliminate lethal control of native species.*

RESPONSE: The impacts of predator control were disclosed and analyzed in the 1997 Roswell Resource Management Plan. This DEIS proposes no changes regarding predator control. Therefore, further analysis is unnecessary. The swift fox was removed from consideration for listing under the Endangered Species Act in 2001 and the species does not meet the definition of a special status species.

80. COMMENT: *We appreciate that the proposed alternative increases the areas in which timing and noise exceptions would not be granted (See DEIS at p. 4-40), but we are concerned that failure to conduct adequate surveys for lesser prairie-chickens in Sparse and Scattered Population Area and Isolated Population Area will result in exceptions that may lead to increased areas from which the lesser prairie-chicken will be extirpated.*

RESPONSE: The Pecos District has a very aggressive survey pattern in both the Sparse and Scattered Population Area and the Isolated Population Area. BLM staff conducts chicken surveys using protocol designed by the New Mexico Department Game and Fish (see Appendix 6, Monitoring and Implementation). As with all BLM programs, interested members of the public are always welcome to accompany BLM staff as it conducts surveys.

81. COMMENT: *See DEIS at pp. 2-34 to 2-35. The DEIS will not adequately protect sand dune lizard habitat. Well pads could be constructed in suitable lizard habitat at the level of 13 pads per section and repeated seismic exploration by thumper trucks would be allowed. This is despite scientists' urging protection from oil and gas activities of lizard occupied, potential, and nearby habitat, given the dynamic and shifting nature of sand dune lizard habitat.*

RESPONSE: In Alternative A there is a threshold of 13 wells per square mile. The New Mexico Department of Game and Fish study indicates that when development reaches 13 wells per square mile, the population of sand dune lizards drops approximately 25 percent. Within the US Fish and Wildlife Service, the lizard has a higher priority for potential listing as threatened or endangered than the chicken. In BLM's judgment, possible reduction in lizard populations by 25 percent is not consistent with the goal of preventing the lizard from being listed while allowing other activities to continue.

BLM believes Alternative B, the preferred alternative, establishes a process that allows development while protecting lizard habitat and, therefore, lizard populations. In Alternative B, after analysis of dune complexes is conducted, lessees may not be able to reach this type of development within lizard habitat. On the converse, companies may be able to develop an area to its fullest potential through a plan of development, which is proprietary information and not available for release, within lizard habitat. There are protective measures to avoid dune complexes by up to 200 meters. The dunes that make up lizard habitat take hundreds of years to move inches.

82. COMMENT: *We are generally concerned that the proposed alternative will fail to limit the landscape level trend of habitat fragmentation that is imperiling the sand dune lizard and lesser prairie-chicken. More specifically, while the proposal includes timing restrictions on some oil and gas operations and off-highway vehicle use,*

these mitigations are subject to exceptions and waivers, and their enforceability is doubtful.

RESPONSE: Alternative B is very specific about when and where exceptions for oil and gas operations would be considered. Through cooperation and communication with groups much can be accomplished. BLM, over the past two years, has had great success coordinating with companies to plan around the timing area allowing for breeding activities to take place uninterrupted. In the Pecos District, patrol of recreation areas, including OHV areas, is a priority for BLM Rangers. While the focus of BLM law enforcement is educating the public regarding permitted uses on public land, BLM Rangers are authorized and do issue citations for violations.

83. COMMENT: *We recommend that the Core Management Area be permanently closed to new leasing, with no exceptions and no termination if the sand dune lizard or lesser prairie-chicken are removed from the ESA candidate list.*

RESPONSE: A permanent closure was analyzed in Alternative C. Zone 1 of Alternative C includes the acreage of the CMA and would be closed to new oil and gas leasing with no exceptions. The prescriptions of Alternatives A and B allow management adaptability and flexibility should one or both species be dropped from candidate status. BLM would continue to apply lease stipulations and conditions of approval in order that neither species would return to candidate status.

84. COMMENT: *BLM should require reclamation efforts in areas that will contribute to assembling or expanding blocks of suitable habitat of at least 8,000 acres in size*

particularly in the Carlsbad Field Office portion of the Planning Area.

RESPONSE: BLM has already targeted areas for reclamation within the Planning Area. Some areas are in occupied habitat and others are in historic areas where chickens have been documented with in the last 2 years. In the Carlsbad Field Office portion of the Planning Area, blocks of habitat greater than 8,000 acres in size are rare. The DEIS is using a building block concept to expand smaller blocks of suitable habitat into larger blocks of suitable habitat. In conjunction with these building blocks BLM is also looking at connectivity to other suitable habitats for chickens and the creation of corridors for passage. These have been prioritized and work has already started. BLM cannot require these efforts, however; through coordination, communication, and consultation with companies BLM has had great success in reclamation efforts to date.

85. COMMENT: ***Authorize energy development no closer than 3 miles from any lek that has documented use by lesser prairie-chickens within the past 5 years.***

RESPONSE: The definition of occupied habitat in association to a lek or sighting was agreed upon by the members of the Working Groups which included representatives of environmental organizations and the petroleum industry. The 1.5-mile distance was based on nesting studies performed in Kansas, New Mexico, and Oklahoma.

86. COMMENT: ***Energy lease stipulations must be maintained as needed on existing leases to maintain conditions suitable for lesser prairie-chickens; particularly time and noise stipulations within 3 miles of existing lesser prairie-chicken leks.***

RESPONSE: See the Response to the previous Comment.

87. COMMENT: ***On page 2-41, the timing stipulation should only apply in the management zones, Habitat Evaluation Areas until they have been evaluated or***

other occupied sites and not “where species habitat is present.”

RESPONSE: BLM agrees and the word habitat has been dropped in the text.

88. COMMENT: ***On page 2-41, the reference to historic leks should be deleted. There are historic leks scattered throughout the planning area, but landscapes have changed (shinnery oak treatments, oil and gas development, grazing use) overtime and these leks may not become active again.***

RESPONSE: BLM, in conjunction with Auburn University, have found that there are five areas that were thought to be inactive now have chicken activity in very close proximity as of the 2006 survey year. BLM believes that it is justified to allow the historic leks some level of protection during the breeding season. These historic leks were once considered the core area for chicken in what is proposed to be the Isolated Population Area.

89. COMMENT: ***Pages 2-41 and 2-42, Exception #2, this should be 3 years and Exception #4, why continue timing stipulation if area evaluated does not meet habitat standards?***

RESPONSE: Exception #2 will not change as 5 years was agreed upon in the Working Group - 5 years for a lek and 2 years for a sighting. BLM has clarified Exception #4 to say exceptions would be granted for Habitat Evaluation Area that do not meet the evaluation criteria.

90. COMMENT: ***Direct mortality from power lines is minimal to lesser prairie-chickens. These structures may cause habitat by fragmentation (.25 mi), but there are other things like fence collisions that have more of***

a negative impact (38% of mortality in New Mexico). In sand dune habitat, the effect on burying miles and miles of power-lines could have a greater impact on lizards than the overhead power-lines do to chickens.

RESPONSE: A dataset from research in New Mexico shows that fence and power line collisions account for only 14 percent of the mortality in Roosevelt County, New Mexico (GMSARC unpublished data). Donald H. Wolfe October 16, 2003.

Burying power lines is only one option of reducing habitat fragmentation in chicken habitat and there will be situations where habitat protection requirements for the chicken may appear to be in conflict with those for the lizard. The preferred alternative has provisions for plans of development (PODs) which provides a mechanism for BLM and industry to develop solutions to these apparent conflicts.

CULTURAL RESOURCES AND PALEONTOLOGY

91. COMMENT: *On page 2-19, Under Paleontology, Delete “where geology is conducive to finding fossils”. When construction workers find these resources they are required to stop and report.*

RESPONSE: Based on comments received BLM has revised this section which now states: “Where fossil locations are known or where significant or important fossils are discovered, a qualified paleontologist would perform a literature and records search, conduct a field survey and report the findings prior to the BLM authorizing surface disturbance.”

92. COMMENT: *Although there is discussion of current management of cultural resources and planned management under the various alternatives, it is somewhat difficult to discern whether there would be an overall change in management under any or all of the alternatives. A brief statement reiterating this point in the Executive Summary would be helpful to the reader.*

RESPONSE: Cultural resource management remains the same for current management and for all of the

alternatives. The amount of potential damage to cultural resources from a variety of sources will vary by alternative because each alternative allows differing amounts of surface disturbance. The more surface disturbance, the more likelihood there is for impacts to cultural resources.

93. COMMENT: *On page 2-8, the term should be Advisory Council on Historic Preservation, not “American Council”.*

RESPONSE: This error has been corrected.

94. COMMENT: *In Summary Tables, it is not apparent how the indirect effects on cultural resources were quantified. Some explanation in the text is needed as to what constitutes, for example, “20% less indirect impacts”. The document is currently unclear on this point and clarifying information should be added.*

RESPONSE: Each of the alternatives has its own level of predicted surface disturbance. The assumption here is that the more predicted surface disturbance there will be, the more indirect impacts there will be on cultural resources.

95. COMMENT: *The text in Chapter 4 addresses only traditional cultural properties (TCPs). There are many other types of resources that could be affected by the various alternatives. These should be discussed at least in summary in this section so that the totality of cultural resource types that are part of the affected environment can be reviewed.*

RESPONSE: The range of cultural resources in the planning area includes prehistoric sites: paleoindian, archaic and formative or ceramic. There are also protohistoric and historic sites. There may be traditional cultural properties and sacred sites in the planning area but the BLM has received no information concerning these from Native American Tribes who once lived here.

OFF-HIGHWAY VEHICLES

96. COMMENT: *The DEIS understates the impacts to lesser prairie-chickens and sand dune lizards from off-highway vehicles by stating that these species are mobile and can therefore flee from vehicles. See DEIS at p. 4-38. The agency has therefore failed to take a hard look at the damage to habitat, disturbance to wildlife and plants, and vehicular collisions that can occur due to this activity, to the detriment of the species this RMPA is supposed to conserve.*

and impacts would be directly tied to the area being used. Due to the nature of the sand dune lizard and the habitat requirements of shinnery oak overhangs and the avoidance of open un-vegetated dunes impacts would be minimal.”

RESPONSE: The DEIS, on page 4-38 states:

“Possible impacts associated with OHV expansion within the Planning Area for lesser prairie chicken would be minimal at best. Impacts would be associated with the duration of use in an area and impacts would be directly tied to the area being used. Wildlife species that are highly mobile, such as the lesser prairie chicken, would evacuate the area during times of OHV use, and potentially return to the area once activities have ceased. Potential impacts to sand dune lizards would be minimal as well. Sand dune lizards are a mobile species that utilize sand and shinnery oak for cover. Impacts would be associated with the duration of use in an area

Prior to the release of the DEIS, BLM staff biologists and recreation planners conducted preliminary surveys of existing and potential OHV areas within the Planning Area to determine the level of potential conflicts between OHV use and other resources. These surveys indicated the proposed expansion of the Mescalero Sands North Dune OHV and the proposed Square Lakes OHV Area could go forward with the criteria detailed in Alternative B due to the absence of chickens and lizards in these areas. The text in the FEIS has been amended to include this preliminary information.

97. COMMENT: *The planning area contains 847,491 acres of BLM surface land, and under the proposed alternative, 843,000 acres would remain open to OHV use on designated roads and trails. It is unclear, however what the impact would be spatially, given that the travel planning has not yet been completed. See DEIS at page S-13 Regardless, this proposal leaves over*

99% of the planning area open to OHVs.

RESPONSE: The definitions of OHV designations, open, limited, and closed, are specific and can be found in the Glossary of the DEIS. Alternative B, the preferred alternative, proposes to designate 843,000 acres as limited to existing roads and trails. Only 1,000 acres would be designated as open to OHV use and these acres are unsuitable sand dune lizard habitat. This is in stark contrast to No Action (current land use plans) in which 586,000 acres are designated as open to OHV use and 258,000 acres designated as limited to existing roads and trails.

The designation of limited to existing roads and trails is an interim step. In the future, BLM will designate roads and trails for OHV use in transportation planning. The text in the Executive Summary has been amended to clarify this.

98. COMMENT: *Alternative B would triple the size of the Mescalero Sands North Dune OHV Area (from 562 acres to 1674 acres), would continue authorization of the 55,800 acre Hackberry Lake Intensive OHV Area for this land use, as well as establishing the Square Lake OHV Area.*

RESPONSE: The criteria for expansion are; (1) an increase in public use/demand and; (2) no conflicts with chicken or lizard habitat. Both criteria have to be met before any phase of the expansion would occur. The impacts of expanding the Mescalero Sands North Dune OHV Area have already been analyzed in the 1997 Roswell Resource Management Plan (RMP). This DEIS identifies and analyzes the impacts of the criteria for the possible three-phase expansion of this OHV area.

A portion of the Hackberry Lake Intensive OHV Area (22,673 acres) is located within the Planning Area. Alternative B proposes to change the OHV designation of that portion by designating 22,541 acres as limited to existing trails with the remaining acres (132) designated as open to OHV use.

The criteria for establishment are; (1) an increase in public use/demand and; (2) no conflicts with chicken or lizard habitat. Both criteria have to be met before this OHV area would be established. The area that Alternative B proposes to establish as the Square Lake OHV Area is currently being used by the public for OHV recreation with no management control. Alternative B establishes criteria that must be met before the OHV is established. The establishment of Square Lake OHV Area would allow BLM the opportunity for management of this area. This DEIS identifies and analyzes the impacts of the criteria for the possible establishment of this OHV area.

99. COMMENT: *The DEIS acknowledges that OHV use is increasing in the BLM's Pecos District, but has failed to adequately disclose the impacts of this land use on special status species.*

RESPONSE: BLM acknowledges that increased OHV use is likely to continue within the Planning Area. Impact analysis is found in Chapter 4 of the DEIS and BLM believes it has adequately disclosed the impacts of OHV use on special status species.

By using multiple land use designations, BLM can provide a quality motorized experience in certain areas while still meeting conservation goals and requirements. The lesser prairie-chicken and sand dune lizard are candidate species under the Endangered Species Act. As a

candidate species, neither species is eligible for full protection under ESA. Therefore, protection of chicken and lizard habitat is not a legal matter but a matter handled under BLM policy.

It is BLM's policy to manage public land and resources in such a manner so that it is not necessary to list the lesser prairie-chicken or the sand dune lizard. The purpose of this resource management plan amendment (RMPA) is to put into place management prescriptions that would avoid the necessity of listing either the sand dune lizard or the lesser prairie-chicken while allowing existing activities on public land to continue. BLM believes the implementation of this RMPA will accomplish this purpose. BLM, through the EIS, would monitor designated OHV activity and visitor use to evaluate the impacts to special status species and their habitat for the purpose of giving managers the necessary information to make decisions. BLM believes this management component represents a balanced approach to our multiple use mandates, and a reasonable decision making tool to protect special status species habitat.

100. COMMENT: *The discussion of the expansion of the Mescalero Sands North Dunes and creation of Square Lake OHV Area on page 2-51 of the DEIS states that lesser prairie-chicken and sand dune lizard surveys would be conducted to determine if conflicts would occur, but no information is given on what level of "conflict" would preclude the expansion of Mescalero Sands North Dune and creation of Square Lakes OHV Areas.*

RESPONSE: Any conflict would preclude either the Mescalero Sands North Dune OHV Area expansion or establishment of Square Lake OHV

Area. Prior to the release of the draft document, BLM staff reported no conflicts with special status species or their habitat. Before expanding any phase of Mescalero Sands North Dune OHV Area, the acreage would be surveyed again to ensure that conflicts do not exist with special status species or their habitat. Before establishing Square Lake OHV Area, the acreage would be surveyed again to ensure that conflicts do not exist with special status species or their habitat.

101. COMMENT: *Based on the known occurrence of the lizards in Sand Dune Lizard Habitat Area as indicated by Maps A-1 and B-1, and the location of Mescalero Sands North Dune and proposed location of the Square Lakes OHV Areas within the Sand Dune Lizard Habitat Area, we do not believe the expansion of Mescalero Sands North Dune and creation of Square Lake OHV Areas can avoid surface disturbing activities and therefore negative impacts to the lizard in occupied and suitable dune complexes where the lizard is known or expected to occur.*

RESPONSE: It was not BLM's intent to portray the Sand Dune Lizard Habitat area (see Map B-1) as contiguous occupied or suitable habitat. BLM understands the Sand Dune Lizard Habitat area contains many acres that are neither occupied nor suitable lizard habitat.

Prior to the release of the draft document, BLM staff biologists reported no conflicts with special status species or their habitat. As stated above, the acreage would be surveyed again to ensure that conflicts do not exist with special status species or their habitat before either expansion or establishment of new OHV areas would occur.

102. COMMENT: *We are concerned about the ability of the BLM to enforce OHV restrictions and limitations (i.e., restricted to existing routes and trails versus open to overland travel).*

RESPONSE: Every established recreation area, including OHV areas, must have a recreation area management plan (RAMP). This resource management plan amendment would amend the RAMP for the Mescalero Sands North Dune OHV Area.

Should the criteria be met to establish the Square Lake OHV Area, BLM would develop a RAMP (would include route

designation) and the impacts would be analyzed in a National Environmental Policy Act (NEPA) document. Once the RAMP is completed, implementation would include marking designated trails and developing maps of the trails within the area.

After recreation areas are established, enforcement is a function of BLM Rangers. In the Pecos District, patrol of recreation areas, including OHV areas, is a priority for BLM Rangers. While the focus of BLM law enforcement is educating the public regarding permitted uses on public land, BLM Rangers are authorized and do issue citations for violations.

RECREATION

103. COMMENT: *Why is there a no surface occupancy (NSO) requirement for the entrance corridor to Mescalero Sands North Dune OHV Area? The BLM can require a location to be 200 meters either side of the entrance road. And if this decision is carried forward then the size of corridor needs to be explained.*

RESPONSE: The NSO requirement for the entrance corridor for the Mescalero Sands North Dune OHV Area was established by the 1997 Roswell

Resource Management Plan (RMP). The size of the corridor was also established by the 1997 Roswell RMP and is represented as Phase 1 on Map B-3.

104. COMMENT: *On page 2-24, under Visual Resources, what is meant by texture?*

RESPONSE: Since there is no definition for texture in Visual Resources, the term has been dropped from the text.

SOCIO-ECONOMIC CONDITIONS

105. COMMENT: *One of the biggest flaws is the measure of economic impact from personal income. The variable and attributes [of the Economic Profile System] are not adequate, therefore no true conclusions can be made to the potential impact this could have on the local communities in SE New Mexico or to the entire state.*

RESPONSE: The Economic Profile System (EPS) is not a model used to measure economic impacts. EPS was developed to produce standardized economic and demographic profiles for a selected region, county, or community in any of the 50 states. EPS profile information for the four counties of the Planning Area is presented in Chapter 3, Affected Environment. Chapter 3

describes the physical, biological, social and economic characteristics of the Planning Area that influence the resolution of planning issues that affect or are affected by the alternatives described in Chapter 2. The description of the affected environment serves as a baseline for analyzing and determining the effects on resources from various alternatives. The socio-economic impacts of each alternative are discussed in Chapter 4.

106. COMMENT: *Chapter 3 states that the share of total employment and personal income generated by the ranching and oil and gas industries has declined in southeast New Mexico over the past 30 years. This statement is in error based upon the increase on the price of oil and gas since the 1970s.*

RESPONSE: The employment and income information used in Chapter 3 was gathered by the Bureau of Economic Analysis, US Department of Commerce. From 1970 to 2000, the number of people employed in the Farm and Agricultural Services category declined independently of the prices of oil and gas. This category's share of total employment also declined during this time period. From 1970 to 2000, the number of people employed in the Mining category, which includes oil and gas employment, stayed roughly the same with fluctuating highs and lows, dependent on the prices of oil and gas. This category's share of total employment, however, declined during this time period. Other categories of employment grew at faster rates during this period.

The personal income figures used in Chapter 3 have been adjusted for inflation so that the figures compare equal dollars. Again, from 1970 to 2000, personal income earned in the Farm and Agricultural Services category rose,

however, its share of total personal income declined. The same thing happened to personal income in the Mining category, personal income rose while its share of the total personal income declined. Personal income from other categories grew at faster rates during this period.

107. COMMENT: *The Economic Profile System (EPS) used in Chapter 3 under-represents direct employment in the oil and gas industry in southeast New Mexico as well as those employed in related occupations. BLM should use more recent figures from the New Mexico Department of Labor.*

RESPONSE: BLM used the most recent data available at the time the DEIS was developed. Both EPS and the NM Department of Labor use the North American Industry Classification System (NAICS) for classifying employment categories. The most recent employment data available in EPS is from 2004. For 2004, both EPS and NMDL report comparable employment data in southeast New Mexico. See also Response to the following Comment.

108. COMMENT: *BLM should include recent local and state figures for economic planning.*

RESPONSE: Chapter 3 does not purport to be an economic plan or an economic analysis. Chapter 3 describes the physical, biological, social and economic characteristics of the Planning Area and serves as a baseline for analyzing and determining the effects on resources from various alternatives. Data for this profile were obtained from four sources:

- Regional Economic Information System of the Bureau of Economic Analysis, US Department of Commerce

- Bureau of Labor Statistics, US Department of Labor
- County Business Patterns, Bureau of the Census, US Department of Commerce
- Bureau of the Census, US Department of Commerce

Many of the state and local sources of data, including New Mexico, do not include information on the self-employed or on the importance of non-labor income, such as retirement income and money earned from past investments. This can result in the underestimation of employment and total personal income, in some cases, by at least one-third. BLM believes EPS provides an adequate economic profile of the Planning Area covering the past 30 years.

109. COMMENT: *In Chapter 3, BLM should account for the importance of the oil and gas industry to the economy of New Mexico.*

RESPONSE: As stated in the previous responses, Chapter 3 serves as a baseline to compare the impacts of the alternatives. BLM uses EPS to show long term (more than 10 years) economic and demographic trends in the Planning Area and surrounding communities. BLM has acknowledged the importance of the oil and gas industry in New Mexico throughout the DEIS. In Chapter 3, BLM has attempted to present the economic and demographic trends in an unbiased manner. BLM believes EPS provides an adequate economic profile and demonstrates economic trends without pointing at a specific industrial category or group.

110. COMMENT: *EPS indicates that services are supplanting oil and gas and livestock grazing as drivers of the local economy. We note that lesser prairie-chicken provide an important ecotourism attraction in the southern plains. Milnesand, NM and Canadian, TX have organized festivals around chicken viewing that have been highly successful in economically diversifying these rural communities. BLM should include more adequate economic analysis to consider this information.*

RESPONSE: BLM understands the chicken festival that occurs near Milnesand is organized by the New Mexico Department of Game and Fish. Given the small size of Milnesand, an unincorporated area, the effects on the local economy of the two-day festival are absorbed by adjacent communities such as Tatum, NM and Portales, NM. BLM believes EPS provides an adequate economic profile of the Planning Area.

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PENALTY FOR PRIVATE USE 300