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APPENDIX 19—RESPONSE TO PUBLIC COMMENT

Appendix 19 contains responses to substantive comments (see Glossary for definition) received on the Supplemental Draft Environmental Impact Statement for the Jack Morrow Hills Coordinated Activity Plan (JMH CAP)/Draft Green River Resource Management Plan (RMP) Amendment. Comments were received via written, e-mail, Web-based, and oral communication (public hearings) from members of the public, governments, governmental agencies, and nongovernmental agencies.

All comments were assigned a number according to the media from which they were received to facilitate comment tracking and analysis. However, because it was impossible to predict the number of comments that would ultimately be received, a comment number range of 100,000 was designated for each of the media sources to accommodate a potential large volume of comments. Based on past experience, comments were not anticipated to exceed this range. Given this numbering system, note that the comment number range chosen is not an indicator of the actual number of comments received. For example, a comment numbered in the 100,000 range does not mean that 100,000 comments were received.

- Web-based comments were assigned numbering in the 1 to 99,999 range
- Written comments were assigned numbering in the 100,000 range. Comments received at public hearings were considered written comments based on the official public transcript taken
- E-mail comments were assigned numbering in the 200,000 range.

A total of 69,471 public comments were received and analyzed for substantive comment information. The number of comments received via each media source is as follows:

- 60,288 e-mail comments
- 9,130 written comments
- 53 Web-based comments.

A majority (>99 percent) of e-mail comments are “form letter” type comments. Of the 60,288 e-mail comments, 60,020 are form letter comments. These comments voice support for the Citizens’ Wildlife and Wildlands Alternative for the JMH CAP planning area, identifying the major aspects of this alternative. The written comments also include 8,638 similar “form letter” comments received in postcard format. Samples of these comments are included in Appendix 19A (see enclosed CD), along with all comment letters that contain substantive information. Responses for the entire Citizens’ Wildlife and Wildlands Alternative (comment number 100,453) are provided in Section A-19.21 of this appendix.

All comments were reviewed and evaluated for response as outlined in BLM manual H-1790-1. Comments were addressed if they—

- Were substantive and related to inadequacies or inaccuracies in the analysis or methodologies used
- Identified new impacts or recommended reasonable new management options or mitigation measures
- Involved substantive disagreements on interpretations of significance.

In the case of unique comments, each response is preceded by the submitted comment. In the case of identical or similar comments, each response is preceded by a comment summary or representative comment.

The comment number(s) to which each response applies is shown before the actual comments and associated responses. The responses are primarily organized by BLM resource program and other applicable categories (e.g., governments and agencies). Consequently, a comment (written, Web-based, e-mail, oral) that addresses several resource programs may be responded to in various sections of this appendix. Responses to comments from governments and agencies are not organized by resource program, but are included separately in Section A-19.20 of this appendix.

In Appendix 19A (see enclosed CD), all comments that contain substantive information are included in their entirety and organized by comment number.

Table A19-1 of this appendix lists all the names and associated comment numbers of individual members of the public, governments, governmental agencies, and nongovernmental agencies that submitted substantive comments. The resource programs associated with each comment number are also included to facilitate identification of specific comments and associated responses throughout this appendix.

A-19.1 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Comment Number: 100,376

Comment:

It is untenable that BLM still insists that it cannot manage the public lands so as to exclude some commodity uses. The supplemental draft EIS states that to do so would “not meet the objectives of BLM’s multiple use mandate” (supplemental draft EIS at 2-4). This is not true. Moreover, it flies in the face of the Solicitors opinion that required BLM to supplement its previous draft EIS on the Jack Morrow Hills; Memorandum to the Secretary of the Interior from the Solicitor (December 22, 2000).

FLPMA explicitly provides that BLM need not accommodate all resource uses on all lands.

BLM must consider the relative value of the resources involved. There are no replacements or substitutes for some resources on the public lands, such as crucial wildlife habitats, cultural and paleontological resources, clean air, clean water, and wilderness. As such, they have a greater relative value than resources that can be provided by other means or in other locations. The final JMHCAP must give special emphasis to preserving rare resources.

Response:

BLM agrees that Multiple Use, as defined in FLPMA, provides for managing the public lands and their various resources so that they are used in the best combination that will best meet the present and future needs of the American people. This direction indicates that not all uses need to be accommodated in all areas. The Preferred Alternative in the supplemental draft EIS and the Proposed Plan in the final EIS reflect this provision. Not all areas would be open to all types of uses in the JMHCAP area. In addition, not all areas would be open to uses in the same time frame. Management actions for all resources are provided in the preferred alternative and proposed plan, including those that provide protection of sensitive resources.

Comment:

The supplemental draft EIS admits that BLM lacks information on non-game species. There have been few inventories of prairie dog colonies despite the fact that they provide crucial habitat for several endangered and declining species. Air quality data is outdated. Only two percent of cultural resources have been inventoried. No information has been gathered from the tribes on Native American holy places. All of this information is relevant to BLM’s management of the unique resources on the Jack Morrow Hills. Failure to obtain information relevant to the environmental consequences of a proposed action, absent “exorbitant” cost and disclosure under 40 C.F.R. § 1502.22(b), results in a failure to satisfy NEPA; if an agency’s conclusions are “not supported by study or supporting documentation, [they] are insufficient to satisfy the agency’s NEPA obligations.” *Siskiyou Regional Educ. Project v. Rose*, 87 F.Supp.2d 1074, 1099 (D. Or. 1999).

The courts have held that the obligation to obtain missing information is an affirmative one: NEPA does, unquestionably, impose on agencies an affirmative obligation to seek out information concerning the environmental consequences of proposed federal actions. Indeed, this is one of NEPA’s most important functions. As this court has held, “the basic thrust of an agency’s responsibilities under NEPA is to predict the environmental consequences of proposed action before the action is taken and those effects fully known.” *Alaska v. Andrus*, 580 F.2d 465, 473 (D.C. Cir. 1978), vacated in part as moot, 439 U.S. 922 (1978) (quoting *Scientists Institute for Public Information v. AEC (SIPI)*, 481 F.2d 1079, 1092 (D.C. Cir. 1973)).

Response:

The BLM uses the best data available at the time the document is prepared. BLM uses the Wyoming Natural Diversity Database (WYNDD) and Wyoming Game and Fish Department (WGFD) databases for nongame species and any information acquired. The BLM also uses information from other sources when provided and appreciate the sharing of this data. One purpose of our many public meetings is to provide opportunities for individuals and entities to share resource information. Any data received is reviewed and included if applicable. Obtaining information on such resources as all nongame species and all cultural sites involves inventory and with wildlife species, trapping activities for all nongame species, which would be an exorbitant cost to the government. The BLM has noted this information in the final EIS.

BLM has consulted extensively with tribes concerning Native American Holy places that are referred to as Native American Respected Places. Please see Chapter 5 and Appendix 7 for additional information concerning this consultation process. Our management identified in the Preferred Alternative in the supplemental draft EIS and the Proposed JMH CAP in the final EIS provides for continued communication and consultation with tribes on these sites. Religious sites and cultural sites are considered proprietary data and are not mapped or else identified specifically in the supplemental draft EIS. Other features that are known and not proprietary have been made available in the supplemental draft EIS. BLM is pleased to note that it was one of our specialists who initially identified the Indian Gap Trail on the 1884 GLO plat and made this information available to tribes and the public. The air quality information for the supplemental draft EIS is provided in the Air Quality Technical Report for the Pinedale Anticline Oil and Gas Exploration and Development Project and is the current best available data. Updated air quality analyses will be performed for the Pinedale and Rawlins RMP updates. The BLM believes that a reasonable analysis of available data has been provided and an adequate basis for the proposed decisions provided using reasonably foreseeable development actions. Site-specific analysis of any activity on public lands would also identify if resource values such as cultural resources and sites of concern to Native Americans, prairie dog colonies or other resource values are present. The BLM will also continue to acquire new data and information as it becomes available.

Comment:

A mere listing of mitigation measures is inadequate. *Northwest Indian Protective Cemetery v. Peterson*, 795 F.2d 688, 697 (9th Cir. 1986), reversed on other grounds sub nom *Lyng v. Northwest Indian Protective Cemetery*, 485 U.S. 439 (1988). As the court noted, “a mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.” *Id.* (citing *Adler v. Lewis*, 675 F.2d 1085, 1096 (9th Cir. 1982)).

The supplemental draft EIS seems to have drawn many of its mitigation measures from previous planning documents or other sources without any analysis of the efficacy of those measures. See, e.g., Appendix 5 and Appendix 6. For example, there is no discussion of whether the standard seasonal restrictions are adequate to protect crucial big game habitats on the Jack Morrow Hills. There is no evaluation of whether the buffers used in the past have improved the viability of sage-grouse leks and nesting areas.

Response:

Appendix 5 and Appendix 6 offer standard BLM guidelines for mitigation of surface disturbing activities to various resources and are not intended as a list of mitigation measures. These guidelines have been developed through various BLM planning efforts and are continually modified as additional information is obtained on the adequacy of each guideline. Specific mitigation measures are built into the management actions of each alternative and provide a range of management. Mitigation actions are then analyzed in Chapter 4 of the supplemental draft EIS to determine the adequacy of mitigation proposed in each alternative. As part of the Proposed JMH CAP implementation, monitoring will be conducted to determine the effectiveness of mitigation and adjustments in management made accordingly.

Comment Number: 100,455**Comment:**

The supplemental draft EIS is fundamentally flawed, among other reasons, by its failure to provide a format for understanding impacts to resources. BLM chose a method of outlining management objectives (e.g., fire management, surface waters, vegetation, wildlife) and then proceeded to describe how each of the five alternatives would affect management goals and not environmental impacts. In preparing another supplement draft EIS for this area, BLM should make the document comprehensible - doing so will make it more than readable, it will also make the document meaningful. A much better way to present the information in the supplemental draft EIS would be to take one of the resource uses - such as oil and gas leasing and development - and then provide the different alternatives (e.g., number of wells, phasing of leasing, areas open, closed, NSO, etc.) for analysis. Within that section of the EIS, BLM could then take all of the other resources, such as water, soils and wildlife, and actually describe the impacts to these resources based upon the different development scenarios presented in the alternatives. This was not done for any resource use in the supplemental draft EIS and this major conceptual flaw in the design of the supplemental draft EIS renders it not only unreadable, unworkable and incomprehensible, but more importantly, virtually meaningless in terms of an actual analysis of impacts to the many, varied and unique resources within the Red Desert.

Response:

BLM disagrees. As noted above, the alternatives in a land use planning document are complete land use plan alternatives. In the case of the JMH CAP, each alternative analyzed in detail is a complete coordinated activity plan. The format for the supplemental draft EIS was developed in part in response to comments on the original draft EIS (June 2000) and was modified from the original draft EIS to reduce the amount of repetition between sections to facilitate reading and understanding.

The impact analyses then analyze the impacts of the various CAP alternatives, and the impacts are described by resource for each alternative. Where the impact analysis could be specific, it was so noted—for example with a particular effect to big game, elk, or the big sagebrush scurfpea vegetation type. The JMH CAP contains many broad management decisions, not site-specific actions. This results in developing a broad level of analysis. The entire impact analysis section for each alternative provides the analysis of effects to and from resources and where applicable, resource uses. For example, the impacts to fire management address the effects of management actions on this program. However, where a fire management activity affects a resource, such as vegetation, these effects are described in the vegetation impact analysis section. Where some of the effects exist and can be estimated, BLM has attempted to describe them in greater detail in the final EIS.

A-19.1.1 Cumulative Effects**Comment Number: 100,137****Comment:**

Please look at the cumulative impacts and take your time to further scar the landscape with roads, noise and air pollution, making sure you are not causing irreparable harm to the land, the migrations, the air and the water.

Response:

Cumulative impacts have been updated in the final EIS and are discussed in Chapter 4 under each respective resource category.

Comment Number: 100,232**Comment:**

The Wyoming BLM has not fully analyzed the impacts of this project. Some of the impacts include habitat fragmentation, loss of habitat for wildlife, increased roading in the area, and the construction of permanent structures. The BLM needs to assess the cumulative impacts of ponds and other energy infrastructure on extending the harmful impacts of livestock grazing.

CHD also feels that the BLM needs to better address the cumulative impacts of livestock grazing and other disturbances on the affected land. Your office must also assess harmful impacts of noise pollution on wildlife and recreational uses of the affected lands.

Response:

The cumulative effects discussion has been updated in Chapter 4 of the final EIS.

Comment Number: 100,327**Comment:**

Cumulative impact in the JMH has not been sufficiently considered. As a patriot I am vitally interested in the management of American public lands. Accordingly, I have commented on over a hundred EAs and EISs. One pervasive quality worries me greatly. Each EA or EIS divides the proposed impacts into seemingly insignificant or barely significant impacts and rarely if ever, has any agency considered the sum of the impacts over time and space. For example, the BLM has never addressed, to my knowledge or satisfaction, the total amount of surface areas disturbed in the district through the years to roads, power lines, pipelines, building construction, infrastructure development and recreation development. Without a comprehensive cumulative impact analysis, we find ourselves in a position of not knowing enough to make good decisions because we can't grasp the total impacts.

Response:

The cumulative effects discussion has been updated in Chapter 4 of the final EIS.

Comment Number: 100,345**Comment:**

The supplemental draft EIS is grossly insufficient in its treatment of cumulative effects. An adequate EIS would have addressed the cumulative effects of this project in consideration with all the existing and proposed energy projects in SW Wyoming. The EIS should address the complex issue of cumulative impacts, especially evaluating cumulative impacts of past, current, and future projects on migration corridors and movements of big game. One of the basic principles of NEPA is that the Federal Government shall attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable consequences. A cumulative analysis is critical to meet this important planning principle and should receive more attention in the final EIS.

Response:

The cumulative effects discussion has been updated in Chapter 4 of the final EIS.

Comment Number: 100,376**Comment:**

We note with despair that the cumulative impacts analysis in the supplemental draft EIS contains no reference to the efforts of the Cumulative Impacts Task Force or the Green River Advisory Committee to design a framework for the assessment of impacts on big game habitats in the region. Moreover, the cumulative impacts analysis contained in the supplemental draft EIS is both superficial and misleading. For example, the supplemental draft EIS seems to recognize that the big game populations on the Jack Morrow Hills are part of larger herd units (Steamboat Elk, Steamboat Mule Deer, South Wind River Mule Deer, Sublette Pronghorn, Red Desert Pronghorn, and Lander Moose) and that these herds migrate. Still, the supplemental draft EIS contains little or no information on current population trends among these herds and no data on the types of activities occurring on the lands they occupy that might impact their numbers. The Red Desert Pronghorn Herd had declined to 89% of WGFDs population objective in 2001. More recent data indicates that it is at only 79% of this objective. Vegetation management, mineral production, and livestock grazing outside of the Jack Morrow Hills but within the respective herd unit will impact the pronghorn in the planning area. BLM must consider and evaluate the cumulative impacts of these and other activities across the affected herd units in order to assess the cumulative impacts to big game populations in the Jack Morrow Hills.

The cumulative impact analysis inappropriately focuses on elk. The desert elk herd is unique, but pronghorn and mule deer are an important wildlife resource on the Jack Morrow Hills. Mule deer are declining across much of their range. The supplemental draft EIS admits that the population in the planning area is already below WGFD objectives. BLM should review and disclose population trends for mule deer over the past ten years. The supplemental draft EIS should then analyze the impacts of various activities that may affect herds in the planning area. Those activities are not limited to the Jack Morrow Hills.

Pronghorn populations have declined nationwide from an estimated 1,000,000 animals in 1964 to 649,000 animals in 1997. During the same period, Wyoming's pronghorn population fell from 670,000 to 300,000. This trend is significant. Yet, the supplemental draft EIS contains no information on the vitality of the pronghorn herds on the Jack Morrow Hills. The Sublette Pronghorn Herd migrates over great distances. It is being affected by energy development and other human disturbances throughout its range. The supplemental draft EIS contains no discussion of these impacts. The range of the Red Desert Pronghorn Herd is under assault from both conventional oil and gas and coalbed methane projects. The supplemental draft EIS does not address these impacts. It is simply misleading of BLM to suggest that the only threats faced by these animals come from 314 new oil and gas wells on the Jack Morrow Hills. Thousands of new oil and gas wells and thousands of miles of new roads are being proposed on the public lands they roam.

Response:

The BLM has evaluated the documentation on the efforts of the Cumulative Impacts Task Force and Green River Basin Advisory Committee and has updated the cumulative effects analysis in Chapter 4 of the final EIS using similar analysis methods.

Comment Number: 100,452

(From the transcript of testimony given at the public meeting in Laramie on May 7, 2002, regarding the JMH CAP and supplemental draft EIS.)

Comment:

I would like to point out and remind the BLM that they have a lot of good information already about the resources that are in this area, but they need to remember that FLPMA requires them to consider the relative scarcity of the values involved and the availability of alternative means including recycling and sites for realization of those values. Two principles are involved. Oil and gas development on the one side (mineral production) versus all of the other resources that the Jack Morrow Hills has to offer. Oil and gas can be replaced. They are not relatively scarce values, certainly not in Wyoming, and there are alternative means including recycling for realizing those values. I agree with the prior speaker that we do need oil and gas and we will need it for some time to come, but we have to start weaning ourselves off that need. To the extent that there are other options, we should be focusing on them. There are not other options. There are not other alternative means or sites for realizing that some of the values that the Jack Morrow Hills and the Red Desert, in general, provide. FLPMA also requires that BLM weigh long-term benefits to the public against short-term benefits. The benefits of oil and gas development are largely short-term benefits, they are largely private benefits. The long-term benefits that the Jack Morrow Hills have to offer, that they offer now, are those values other than oil and gas development, such as solitude, wildlife, habitat, primitive forms of outdoor recreation, biodiversity, habitats for rare plants, and so forth. I think those are the ones, in this balance, that should certainly weigh more heavily.

Response:

The BLM and the Proposed JMH CAP are mandated by FLPMA to operate under the principles of multiple-use, sustained yield, and environmental integrity. These principles, although simple in theory, are difficult to put into practice. Every user of the public lands naturally wants his or her particular use to predominate with little restriction or interference from other users. A major purpose of the JMH CAP is to resolve such conflicts or mitigate any adverse impacts of resource use. An equally important purpose is to protect the long-term productivity of the public lands. The JMH CAP and the Green River RMP thus try to protect the economic and activity interests of all current users, while minimizing conflicts and maintaining basic soil, vegetation, and wildlife resources that future users may require.

Comment:

In my work as a mental health therapist, we look at something called short-term benefits and long-term costs and I want to use that paradigm in some ways to look at this situation. What we are looking at are some short-term benefits. We are going to have money; we are going to have people coming in; we are going to be employing individuals, but what about the long-term costs? What about the effects on the environment? What about 15 years from now? In the Native American culture, whenever one makes a decision they look at seven generations ahead. The decisions we make today do result in consequences down the road.

Response:

Please see previous response.

Comment:

I know very well that once we touch the desert it is very hard to go back. It's actually probably impossible unless a major ecological catastrophe happens such as a major earthquake or something like that. That is the reason I would like to encourage the BLM to conduct more thorough studies on the potential impacts, the long-term impacts, of development in the Jack Morrow Hills before any development or exploration is furthered.

Response:

Potential impacts of management actions are discussed in Chapter 4 of the final EIS.

Comment Number: 100,455**Comment:**

The BLM follows these first introductory sentences in their Cumulative Impacts “analysis” with more vague and vacuous statements speculating on possible cumulative impacts to vegetation, terrestrial wildlife, and aquatic systems, drenched in the language of uncertainty. Words like “may” and “could” are sprinkled liberally throughout this section, indicating that the BLM cannot predict with any certainty at all what the cumulative impacts to any species or community would be, even at the most vague and diffuse level of predicting whether populations will increase, decrease, or remain the same as a result of implementation of the Preferred Alternative. Thus, the supplemental draft EIS utterly fails to meet the most basic requirement of NEPA to analyze impacts and provide a sound comparison of alternatives.

Response:

By necessity, the JMH CAP must be developed using a broad and more finite level of analysis and contains a combination of broad and finite management decisions. Because the supplemental draft EIS is predecisional (i.e., no decisions have made), words like “may” and “could” are appropriate. Impacts of management actions for each alternative are discussed in Chapter 4 of the final EIS. The cumulative effects discussion has been updated in Chapter 4 of the final EIS.

Comment Number: 200,218**Comment:**

Enlarge the consideration of the cumulative impact that such an extensive development of the various extractive industries (i.e., oil and gas, mineral mining, etc), as well as the other extraneous activities (i.e., pipeline and well inspections, increased human traffic, infrastructure obstacles, etc.), will invariably have on the indigenous native species; in particular, the pronghorn antelope, which to this juncture have not been adequately addressed. Studies should be funded by operators.

Response:

The cumulative effects discussion has been updated in Chapter 4 of the final EIS.

A-19.2 RANGE OF ALTERNATIVES**Comment Number: 100,345****Comment:**

We argued in September 2000 that the entire area should be precluded from further development. At the least, the EIS should present one alternative that precludes further development in this area. The accelerated rate of energy development on adjacent public lands requires that an option of long-term protection of the JMH area should be part of the supplemental draft EIS.

Response:

BLM did analyze an option that precluded development in Chapter 2 of the supplemental draft EIS on page 2-6 under Alternatives and Management Options Considered but Eliminated from Detailed Analysis. In this section, the option of not allowing further development of existing leases was determined to be

unreasonable because all lands with existing leases are not so sensitive or critical that some level of development cannot occur. Some development has occurred in this area and is ongoing. The effects of this development as a whole and the development occurring in the area surrounding the JMH CAP planning area do not cause major conflicts with resources and users to the extent that the development should be precluded from the entire area.

Comment Number: 100,381

Comment:

All of the BLM's alternatives are skewed toward oil and gas development, and I fail to see how the agency has complied with the National Environmental Protection Act with this incredibly narrow range of alternatives.

Response:

The supplemental draft EIS does provide for a reasonable range of alternatives and did consider not allowing additional oil and gas development. Please see response to letter 100,345. Closing the entire area to leasing and development would be contrary to the BLM multiple use mandate because less restrictive measures were determined adequate to protect lands and resources in the JMH CAP planning area.

Comment Number: 100,455

Comment:

At page iv of the supplemental draft EIS, BLM defines the No Action Alternative as the continuation of present course of management based upon the 1997 Green River RMP. However, at page 1-1, BLM states that it deferred "mineral leasing and mineral location decisions within the JMH area" until the current JMH CAP planning effort. Therefore, for all mineral leasing and location - not just within the JMH "core" - there is no current land use planning to revert to. As such, for one of the principal areas of concerns of the current supplemental draft EIS and land use planning, BLM has inappropriately defined the "no action" alternative. A true baseline for which to compare impacts of the various action alternatives would be no new leasing and development on the 575,000-acre federal mineral estate in the JMH CAP planning area.

Response:

BLM disagrees. Sections 1.2 and 1.3 in Chapter 1 further clarify the decision that was made in the Green River RMP that led to the development of the JMH CAP. The Green River RMP deferred the leasing decisions in the Core Area, and this is the direction provided in the No Action Alternative. Not leasing the entire JMH CAP planning area was considered in Chapter 2 of the supplemental draft EIS on page 2-6 under Alternatives and Management Options Considered but Eliminated from Detailed Analysis. The proposal was eliminated from further analysis because resource conflicts tend to be located in specific, scattered areas and are therefore not conducive to area wide planning. Closing the entire planning area to new mineral leasing would eliminate mineral development and production activities in areas in which conflicts do not exist, thereby placing unreasonable restrictions on such activities. In addition, the CEQ guidelines state that in the cases of land use plans, "no action" is "no change" from current management direction or level of management intensity." A preliminary description of the No Action Alternative, and Alternatives 1, 2, and 3 were also made available for a 30-day public review on our Web site in April 2002.

Comment:

Of the 575,000 federal acres in the planning area, approximately 239,000 acres are already under lease (supplemental draft EIS at p. 3-71). First, BLM has failed to take a meaningful look at trading or buying back these leases (or at least the non-producing leases) to protect this entire area from oil and gas development. Second, outside of WSAs that legally cannot be leased, BLM proposes to close just 26,000 acres, or less than 5% of the planning area, to oil and gas development. Except for Alternative 2, which does propose closing most areas to leasing (in fact, reaching a number that somehow closes already leased areas to leasing), the three other action alternatives, excluding WSAs, mirror each other: from zero acres discretionarily closed to leasing to 9,000 to 26,000 acres. Simply put, this is far from the full range of reasonable alternatives.

Response:

BLM disagrees. Alternative 2 in the supplemental draft EIS does address the opportunity for buying back or trading leases with willing parties. The current development and impact analyses among the alternatives indicate that some development can take place within the planning area and there is not a need to buy back or trade all leases. Please see above responses and responses to number 100,377 for consideration of a full range of alternatives, including alternatives and management options considered but eliminated from detailed analysis.

Comment:

BLM has set up the entire EIS framework in a manner that focuses solely on resource allocation rather than the equally important goal of analyzing environmental impacts. In addition, by having to constantly flip to appendices where most of the few details in this supplemental draft EIS are contained to be able to understand some parts of Chapter 4, this supplemental draft EIS violates the readability requirement of NEPA.

Response:

The objective of a land use planning document is to identify land use plan alternatives that provide for resource allocations and uses. In addition, analysis of impacts is a key part of the NEPA process. Without the alternatives, the environmental impacts cannot be addressed. The document format was based on comments provided on the original draft EIS that there was too much repetition and the document too long. Explanatory materials were placed in the appendixes to facilitate review of the document and provide needed information.

Comment:

The present set of alternatives is far from exploring the reasonable set of alternatives that is required by NEPA. For oil and gas decisions, BLM did not address an alternative that would prohibit all new leasing in the JMH and that would rigorously explore buying back or trading existing leases. BLM did not address an alternative that would reduce impacts of mineral leasing and development through directional drilling and other proven technologies. Regarding grazing, BLM failed to explore different options such as limited or sequenced grazing permit retirements, reductions in AUMs and different grazing techniques including limiting or ending hot season grazing.

Response:

BLM believes it has met NEPA requirements by providing a reasonable range of alternatives. BLM considered closing the planning area to new leasing as detailed in Section 2.1.3.3 of the supplemental draft EIS. BLM has also considered closing all sensitive resources to new leasing in Alternative 2. Mitigation to reduce impacts of mineral development is evaluated at the site-specific analysis (application

for permit to drill [APD]) stage of BLM planning. Directional drilling and other proven technologies have limited applications and are considered tools to mitigate impacts of mineral development. These measures would be considered through site-specific analyses. Page 2-10 outlines management practices for meeting the “Wyoming Standards for Healthy Rangelands.” These management practices were included in all alternatives and analyzed in Chapter 4 of the supplemental draft EIS.

Comment:

One alternative missing is a true conservation alternative to protect the Red Desert’s wilderness qualities and wildlands. At page 2-4, BLM states that managing for maximum development, production, or use of one resource at the expense of others would “not meet the objectives of BLM’s multiple use mandate” under FLPMA. This is an incorrect statement of the law - BLM is free to mix, match and allocate different (or no) use levels given the resources at stake, public input and other considerations.

Therefore, in land use planning, BLM need not manage for all uses simultaneously - it can “use some land for less than all of the resources” and take into account the impairment to wildlife, cultural, religious, scenic and historical resources and form an alternative that manages for these resources above, e.g., fluid minerals. This is particularly true where public lands in Wyoming are over 90% open to leasing, and massive oil and gas exploitation is already occurring on public resources in the nearby Pinedale and Great Divide field offices, in addition to other large-scale projects within the Green River resource area - and not to mention the 51,000 coalbed methane wells planned for the Wyoming portion of the Powder River Basin. The failure to exclude a pure conservation alternative is also troublesome given that BLM Wyoming was specifically directed by the Secretary of Interior in 2000 to develop a new set of alternatives with a resource conservation alternative being the preferred one.

Response:

Alternative 3 was developed as a conservation alternative that provides opportunities to use and develop the planning area while ensuring resource protection. The alternative would allow development and activities to occur throughout the planning area provided sensitive resources are protected and mitigation requirements are met. In addition, the Preferred Alternative includes management actions that provide for timing and sequencing of activities to address your concern that BLM need not manage for all uses simultaneously. Please note the clarifications provided in the Proposed JMH CAP in the final EIS.

A-19.3 PUBLIC PARTICIPATION

Comment Number: 100,376

Comment:

We have received troubling reports that BLM may refuse to accept comments submitted on postcards or via the websites of environmental organizations. While some of these comments may be duplicative of those already submitted by others, BLM should be willing to listen to every member of the public who wishes to be heard on the management of the public lands. When making a determination about whether a particular use of lands is in the public interest, it does matter whether 30 people or 30,000 people support BLM’s action.

Response:

BLM welcomes all comments submitted on the supplemental draft EIS. They play an important part in the planning process and help us improve our NEPA documentation and ultimately our decisionmaking. BLM has heard of no such reports and has accepted any comments provided to us by postcard, e-mail, Web site, etc. However, as a result of damage to our fax machine, BLM did not accept a flooding of form-

based comments via this method. BLM provided a Web site with a comment form and an e-mail address for ease of electronic comments. BLM also received written letters and postcards. Comments are on file in the Rock Springs Field Office for anyone to review during regular office hours of 7:45 a.m. to 4:30 p.m., Monday through Friday, except for holidays.

Comment Number: 100,452

Comment:

The agency has repeatedly failed its obligation to sponsor a fair and even-handed public comment process. The National Environmental Policy Act requires agencies to hold public hearings when there is “substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing.” And the BLM’s own handbook states that meetings should be held at times and places that facilitate and encourage public participation. Recent actions by the BLM show that agency decisions regarding public participation have not met the spirit and intent of those regulations, and they leave us gravely concerned that the agency has shown a predisposed bias towards industry.

The Laramie hearing was advertised as open to the public, was held to the same standards as the official Rock Springs and Lander hearings, and participants conducted themselves with greater restraint and decorum than at either of the BLM-sponsored events. The agency’s refusal to attend sent the message that the BLM is uninterested in what the public has to say.

In contrast with the previous examples in which the public requested public hearings but was denied and the refusal of the BLM to attend an organized public meeting, in the Jonah case, at the request of industry BLM willingly changed the location of the hearing and turned it into an industry event. This double standard is unacceptable and we are concerned that this type of misconduct by the agency may bias the outcome of the public scoping process.

Response:

Thank you for your comment. BLM believes it has met NEPA requirements and has provided equal and ample public participation opportunities by holding open house meetings and hearings in Rock Springs and Lander. BLM has also recognized the broad public interest in this planning effort and provided ample opportunity for those who were unable to participate in the open house meetings and hearings to provide written comment via the Internet or U.S. mail. Public participation will continue to be a key component through the remainder of the planning process.

Comment:

(From the transcript of testimony given at the public meeting in Laramie on May 7, 2002, regarding the JMH CAP and supplemental draft EIS).

As the BLM develops its management plan, and the one that they presently developed is really insufficient...but as they write and consider their management plan, they should make the wildlife values and the environmental values of this very special area a priority. And that is, other types of resource considerations need to be secondary to the preservation of this unique area. The present document is not very adequate in that regard. It talks occasionally of protection, but does not offer any kind of detail on how they are going to do it. Instead, it seems to come up with criteria or with a goal of developing oil and gas and then trying to fit everything else around it.

Response:

BLM manages for multiple use, and the Preferred Alternative provides for a balance of resource uses in the planning area.

Comment Number: 100,458**Comment:**

In the past few weeks I've been working to get people from Southwest Wyoming to come to this meeting, and it has been extremely difficult because it's a lot to ask. In speaking to people from Laramie, Cheyenne, and Rawlins, I found that the great majority were interested in attending a meeting on this issue, but were unable to make the trek because they had to work or had other responsibilities in the towns where they live. I feel like BLM, in light of this, must seriously reconsider their decision to exclude the public of Southwest Wyoming. Many of these people that I spoke to feel like they do have a say in the issue, and that they would benefit, both they and, and the Agency would benefit from some type of interaction.

Response:

BLM believes it has met NEPA requirements and has provided equal and ample public participation opportunities by holding open house meetings and hearings in both Rock Springs and Lander. BLM has also recognized the broad public interest in this planning effort and provided ample opportunity for those who were not able to participate in the open house meetings and hearings to provide written comment via the Internet or regular mail. Public participation will continue to be a key component through the remainder of the planning process.

A-19.4 GENERAL LAND AND WATER RESOURCES MANAGEMENT**Comment Number: 100,036****Comment:**

BLM has released a supplemental draft EIS that not only doesn't address, but doesn't even appear to consider the comments of many Wyoming residents submitted at that time.

Response:

As required by the BLM planning process, BLM reviewed and evaluated for preparation of the supplemental draft EIS all public comments received pertaining to the original draft EIS, public scoping, and the management alternatives.

Comment Number: 100,342**Comment:**

Desired Plant Community (DPC). We are very much in support of the DPC concepts, and suggest you add that they will be developed ASAP in each allotment in consultation with the permittee, and that order 3 soils surveys and ecological site descriptions will be developed as the basis for DPC objectives.

Vegetation Treatments. We do not feel that the state of the art rangeland science will support a position of always requiring one year of rest before treatment, or always a two-year rest after treatment. This narrative should provide the flexibility for more or less time than the rest periods proposed in the Draft for this section, if the on-the-ground situations dictate or by agreement between the BLM and permittees.

Response:

Soil surveys are not within BLM jurisdiction, but fall within that of the Natural Resources Conservation Service (NRCS). Surveys will be conducted by the NRCS as funds become available. As surveys are developed, BLM will incorporate that information into DPC objectives. DPCs will be developed by BLM with input from all interested parties.

The Preferred Alternative provides the flexibility to alter the time frame for pre- and post-rest of treatment areas from livestock grazing. The supplemental draft EIS (page 2-94) states that exceptions may be granted when more or less time is indicated by an onsite analysis, which includes input from interested parties. In many cases, rest before treatment will not be required. However, where sufficient fine fuel to carry a fire is not present, resting the area for up to 1 year may be required to make treatment possible. In some cases, complete post-treatment rest may not be necessary. Experience and research have shown that post-treatment grazing management in some areas can be critical to achieving the recovery potential of the treated vegetation.

Comment Number: 100,376**Comment:**

BLM's standards and guidelines and the *Fundamentals of Rangeland Health* addressed in this section have potential applicability and utility for properly managing all resource uses in the planning area. For example, many standards and guidelines and the *Fundamentals of Rangeland Health* would be appropriate as stipulations to oil and gas leases to ensure against unnecessary or undue degradation. Consequently, as part of this planning effort, the BLM should consider what changes if any are needed to extend the standards and guidelines and *Fundamentals of Rangeland Health* to all other programs, and the JMHCAP should provide for their adoption as requirements to guide all future management activities and decisions. The standards and guidelines, and the *Fundamentals of Rangeland Health* provide a convenient means to meet many of the requirements highlighted in these comments.

Response:

The *Wyoming Standards for Healthy Rangelands* does indeed apply to all other programs. The standards are the basis for the health of the vegetation throughout the planning area. As surface disturbing activities take place, a BLM review of the area will identify what is causing a particular standard not to be met. This will dictate the management options and what actions are needed to correct the situation.

Comment:

The EIS should address issues related to fires and fire policy. The JMHCAP should:

- Provide that fire suppression efforts and related vegetation management efforts (like thinning) are focused on the "wildland urban interface." Remote areas should not be subject to mechanical vegetation management activities.
- Establish an ecologically based fire restoration program so that fire can play its natural and necessary role in the planning area.
- Prohibit any mechanical treatments (e.g., thinning) of vegetation in lands proposed for wilderness designation.
- Prohibit road building as a means to accomplish any vegetation treatments in furtherance of the fire policy. If "non-permanent" roads are allowed, there should be strict assurances that such roads will be temporary.

- Be consistent with the *Western Governors Associations' 10-Year Comprehensive Wildfire Strategy* prepared in 2001.
- Provide that riparian areas are restored so that they can serve as natural firebreaks.

Response:

All fire-related activities in the planning area will be conducted in accordance with existing fire policy.

There are no identified Wildland Urban Interface issues in the Planning Area at present. The only vegetation management proposed is to treat up to 5,000 acres with prescribed fire. The purpose of these treatments is to reintroduce fire to those limited areas where fire historically played an ecological role. Most of the planning area has a history of very low fire frequency. No mechanical treatments are proposed for the planning area.

Thinning is a tool for forested fuel types. Timber stands of any significance do not occur within the planning area.

As outlined in BLM Handbook H-8550-1, *Interim Management Policy for Lands Under Wilderness Review*, no mechanized activities are allowed within existing WSAs; therefore, no mechanical treatments within existing WSAs will be conducted as part of this planning effort.

The plan does not propose to build any roads to conduct vegetation treatments.

BLM actions taken under the Riparian-Wetlands Initiative (RWI) to maintain, restore, or enhance riparian/wetland areas to at least proper functioning condition will assist in providing natural firebreaks. It should be realized, though, that many of our stream riparian areas are very narrow (some as small as 5 feet), even in good condition; in these instances, they would not contribute to slowing a fire's progress. However, there have been some cases within the planning area in which fires have stopped at the edge of the larger riparian areas. Under the Preferred Alternative, actions would continue to be undertaken to improve our riparian/wetland and aquatic resources for a multitude of benefits.

A-19.5 FIRE MANAGEMENT

Comment Numbers: 100,342; 100,343

Comment:

Fire suppression: Fire should be allowed for the purpose of removal of sagebrush that has encroached on meadow type habitat and created closed canopy uplands, and should always be planned in consultation with the permittee.

Response:

The Preferred Alternative proposes to treat up to 5,000 acres of vegetation in the planning area with prescribed fire. All prescribed burning activities are consulted and coordinated with affected grazing permittees. Agreements for post-treatment management are a standard operating procedure for the RSFO.

Comment Number: 100,455

Comment:

The BLM outlines options for brush "control," a method for destroying the natural sagebrush communities in hopes of increasing the amount of forage for livestock permittees. This practice is rather

ineffective at increasing graminoids, and often has detrimental impacts on wildlife through direct habitat destruction and habitat fragmentation. There is a prevailing belief among range managers that vegetation treatments that reduce or eliminate sagebrush stimulate a compensatory growth of forage grasses. Proponents of this program argue that there is a need to return the landscape to its pre-settlement mosaic, which was driven by wildfire. However, there are absolutely no reliable data available for the Jack Morrow Hills on pre-settlement fire frequency or the landscape pattern of fire-driven habitat mosaics. Thus, proponents of this policy have no scientific backing for a campaign of widespread sagebrush eradication that would recapitulate the ecologically disastrous efforts west-wide in the 1960s and 70s.

Response:

Vegetative management using prescribed fire does not destroy sagebrush communities. Sagebrush is the climax vegetation for treated sites, and it will again occupy these areas. The length of time required for sagebrush to return to pre-burn dominance is dependent on many variables, some of which include post-burn livestock grazing management, site potential, type (species) of sagebrush, climate, and pretreatment community composition. References cited in paragraphs two and three on page 56 and paragraph one on page 57 of this comment letter are testament to this fact.

Vegetative management using prescribed fire is not intended for “increasing the amount of forage for livestock permittees.” In fact, prescribed burning is a tool to manage vegetation and to achieve *Wyoming Standards for Healthy Rangelands*. Although increased and improved livestock forage may be a secondary benefit, not all treatment sites will be available to livestock as a result of topography or distance from water, for example. The Bureau proposes to treat overmature sagebrush stands primarily to improve watershed function, release important mountain shrub and Aspen communities from competition with encroaching sagebrush, reduce the encroachment of species such as juniper into the sagebrush type, and improve habitat conditions for many wildlife species.

Historic natural fire occurrence in the planning area is low, but occasional lightning caused fires have been reported: four so far in 2003. The Bureau proposes to treat up to 5,000 acres in the planning area over a 20-year period. This small relative acreage (0.08 percent of planning area) is recognition of the low incidence of natural fire and does not qualify as “widespread sagebrush eradication.” The acreage proposed for treatment would not be contiguous and would be the result of several individual projects in separate suitable sites.

All treatments will have a site-specific environmental analysis prepared and reviewed by an interdisciplinary team of Bureau resource staff specialists. Prescribed burns will be rested from livestock grazing a minimum of two growing seasons following treatment.

The scientific literature and field experience have demonstrated significant increases in the diversity, density, and production of herbaceous vegetation following the treatment of sagebrush with fire. Not all sites have the same magnitude of this response. A healthy herbaceous understory before burning is essential to successful vegetative response.

The big sagebrush/lemon scurfpea association is designated for full suppression of wildfire.

A-19.6 WATER RESOURCES MANAGEMENT

Comment Number: 100,137

Comment:

There is a fine balance for many landscapes and the animals that visit, migrate, and call the Red Desert home. There is also a fine balance of life down wind in the Wind River Mountains. This landscape is showing signs of increasing acidity in the water cycle.

Response:

BLM manages upland and riparian resources. Land use restrictions and actions designed to protect water resources are implemented in all alternatives. Acidified precipitation, along with all other aspects of air and water quality, is the purview of the State of Wyoming Department of Environmental Quality (DEQ).

Comment Number: 100,145

Comment:

This alternative (Alt 3) also seems excessive on riparian area buffer areas. Though I agree with the enclosure provisions to a point, if considered on a case-by-case basis by professional range managers with input from affected parties (read ranchers, wildlife managers and mineral lessees), considerations should include the effect of the current drought, and case by case condition of these areas.

Response:

Alternatives developed for this analysis were formulated to address a full range of management actions that could be implemented for the planning area. Alternative 3 provides considerable protection to sensitive resources and imposes restrictions on land uses to achieve desired conditions. The size of the protective areas around riparian areas under Alternative 3 was proposed as such to remain consistent with the theme of the Alternative and help achieve a full range of management actions. Conditions such as drought are not sufficiently predictable to be addressed in this type of long-term plan and are dealt with in a more responsive manner than is available in this document.

Comment Number: 100,232

Comment:

CHD believes that the BLM needs to address the impacts to soil and water. The proposed decision must better assess the increased soil erosion and runoff. Your office must better assess the impacts to aquifer depletion.

Response:

Impacts to soil and water are discussed in Chapter 4 of the supplemental draft EIS. It is stated that impacts would increase under alternatives that allow for increased development. However, the supplemental draft EIS also states that the level of significance of the impact would depend on the rate and location of development activities and the rate and effectiveness of reclamation. Site-specific impacts would be further analyzed in additional NEPA documentation when development activity is proposed.

Comment Number: 100,332**Comment:**

Page 3-6 The Green River does not cross the JMH CAP planning area.

Response:

The statement, “Quaternary aquifers generally contain the highest-quality water, with TDS ranging from 100 to 200 mg/l in the headwaters, to 700 mg/l along the Green River. Within the planning area, it is anticipated that TDS levels would be on the high end of the range because of local influences of the Green River Formation...” found on page 3-6 refers to general regional trends that were used to estimate the most likely conditions to occur within the JMH CAP planning area.

Comment Numbers: 100,342; 100,343**Comment:**

BLM needs to consult with the permittee with the planning of riparian exclosures. Maintenance on the exclosure should be conducted by the beneficiaries of the exclosure.

Response:

It is standard operating procedure to consult with the permittees regarding the planning of riparian exclosures. Maintenance is determined on a case-by-case basis.

Comment Number: 100,376**Comment:**

FLPMA requires that land use planning and the resulting plan provide compliance with “pollution control laws” such as Clean Water Act (CWA). 43 USC 1712(c)(8). To do so, BLM must ensure that all streams on its lands comply with federal and state water quality standards. Yet, the supplemental draft EIS contains little information on the current condition of surface waters within the planning area. For example, according to the supplemental draft EIS, only Pacific, Jack Morrow, and Killpecker Creeks have been “sampled” for total dissolved solids (TDS) and “other constituents” (supplemental draft EIS at 3-5). There is no information on the Sweetwater River except that its “suggested use” is domestic (supplemental draft EIS at 3-5).

Without additional information, it is impossible to tell whether the surface waters within the planning area currently comply with federal and state water quality standards. Moreover, BLM cannot determine whether the additional activities it intends to authorize pursuant to the JMHCAP will result in violations of CWA. For example, according to the supplemental draft EIS, “no information is available to date supporting water quality standards for any of the [livestock grazing] allotments” on the planning area. Yet, livestock contribute to fecal coliform pollution in surface waters.

Response:

Water quality and related compliance issues are the purview of the State of Wyoming through the DEQ. BLM assesses riparian area health through functional assessments under the “Wyoming Standards for Healthy Rangelands.” For its part, the BLM works to maintain healthy vegetation and soil conditions, which in turn help in the retention and filtering of water resources.

Comment:

According to the supplemental draft EIS, 79% of riparian areas and 87% of wetland areas in the planning area are not in Proper Functioning Condition (PFC) (supplemental draft EIS at 3.3). Moreover, half of the riparian areas and all of the wetland areas functioning at risk “exhibit a downward trend and show signs of becoming increasingly unstable” (supplemental draft EIS at 3-3). Given these facts, it seems likely that many of the adjacent surface waters may already exceed state water quality standards for TDS as well as turbidity or other non-numeric standards. Yet, the JMHCAP adopts no restrictions on livestock grazing in riparian or wetland areas.

Response:

TDS and turbidity are related but not directly tied to riparian functionality. Based on the limited water quality data available, state water quality appears not to have exceeded state standards for agricultural or livestock water.

The “Wyoming Standards for Healthy Rangelands” (which include a riparian component) provide a desired condition for all rangelands within the planning area. BLM works with permittees and other interested public to develop strategies to achieve those standards.

Comment:

Most of the planning area is subject to the Colorado River Salinity Compact, a basin wide approach for controlling salinity in the waters that naturally drain into the Colorado River.

Because nonpoint sources are a significant contributor to salinity (see supplemental draft EIS at 3-5), the supplemental draft EIS should include an assessment of the efficacy of current mitigation measures, including so-called Best Management Practices (BMPs), to ensure that salinity levels in the Colorado River are not adversely impacted by activities authorized under the JMHCAP. Adoption of a Total Maximum Daily Load (TMDL) for TDS for streams within the Colorado River watershed would be an important tool for achieving salinity control.

Similarly, the JMHCAP should make provision for implementing BLM’s Riparian-Wetland Initiative, particularly the objective of restoring 75 percent of riparian areas to PFC. Only about 1% of the lands managed by the BLM are wetlands, yet these are some of the most ecologically important landscapes within the public lands. Some 70 percent of all Wyoming’s wildlife either reside within riparian areas or utilize them as an important component of their habitat. It is critical, therefore, that the BLM’s Riparian-Wetlands Initiative (RWI) be fully implemented in the JMHCAP.

Response:

TMDLs are not applied to all streams for which a problem may exist. TMDLs are established on streams that have been determined not to meet state water quality standards. In Wyoming, this task is the DEQ’s responsibility.

BLM has implemented the RWI into its management policy. Although all RWI goals may not have been achieved to date, management actions are designed to ultimately reach those goals. The goal of the Rock Springs BLM is to have 100 percent of the streams and wetlands within the JMHCAP area in PFC or better condition. Multiple ongoing efforts to achieve this goal are being undertaken throughout the field office area.

Comment:

According to supplemental draft EIS, the vast majority of riparian areas and wetlands on the Jack Morrow Hills are not in proper functioning condition. Based on the critical importance of these areas, we urge BLM to use this planning process to adopt specific, measurable riparian and wetland area protections.

Response:

Specific actions designed to protect and enhance riparian and wetland areas have been adopted and are stated in Chapter 2 of the supplemental draft EIS. Some of these actions include CSU in riparian/wetland areas; rights-of-way (ROW) avoidance; 500-foot avoidance zones around these areas for surface disturbing activities (except for those actions that are for the benefit of this resource); maintenance of riparian exclosures; implementation of the “Wyoming Standards for Healthy Rangelands.”

As discussed in Section 2.2.1.1 of the supplemental draft EIS, riparian areas would be managed to attain PFC through whichever action is necessary as determined in site-specific plans and actions (e.g., Allotment Management Plans [AMP] and Herd Management Plans [HMP], livestock grazing vegetative use levels, and grazing timing and intensity).

Comment:

The supplemental draft EIS for the JMHCAP is missing several relevant pieces of information without explanation. For example, there is little data on surface water quality, none on ground water quality, and none on the hydrological connection between surface water and ground water.

This information is important to any discussion of the environmental impacts of oil and gas development, both conventional and coalbed methane. The supplemental draft EIS admits that the information is lacking but contains no discussion of how difficult it might be to obtain the data. However, since the supplemental draft EIS promises future studies to gather this information (see e.g., supplemental draft EIS at 4-13), it appears that the data can be readily obtained. The failure to do so now, therefore, is improper.

Response:

Water quality is the purview of the State of Wyoming through the DEQ. Complete surface water and groundwater quality data are neither currently available nor easily attainable.

The gathering of the groundwater data in question requires knowledge of the structure and composition of the underlying geology. This information will be gathered as development occurs. Proper well drilling and completion methods and surface mitigation measures will help to minimize potential contamination of the groundwater resource during the data gathering process.

The connection between CBM aquifers and surface resources is unknown in this area. This relationship will have to be explored in detail when site-specific projects are proposed and EISs are developed.

Comment Number: 100,384**Comment:**

Appendix 3 states that water depletion in the Colorado River System is likely to jeopardize existing threatened and endangered species inhabiting that habitat. The assumptions for water depletions due to oil and gas activities are flawed. Although BLM predicts that all water utilized for drilling would be derived from sources that contribute to river flows, this is not necessarily the case. It has not been scientifically determined that all potential source aquifers are connected to Colorado River System flows. The EIS or the biologic assessment should note that BLM can mitigate the impacts by assuring that

drilling water is not derived from contributing flows. Such a mitigation measure would reduce to insignificance or eliminate potential impacts to threatened and endangered species from water depletion.

Response:

All water depletions from tributaries to the Platte River and Colorado River systems are considered as adverse impacts to the endangered species in those systems. Because the exact location of the water sources to be used for drilling and completion of future wells is unknown, BLM makes the assumption, for the purpose of impact analysis, that the water will come from the drainage in which the well is located and that it will have a direct 1:1 impact on surface flows. As mentioned, this will not always be the case, particularly if the water comes from a groundwater well in an aquifer that is sufficiently deep to be “disconnected” from surface waters. When site-specific projects are proposed (whether in an EIS or individual APD), further environmental impact analysis will occur, and the specific water source and amount will be identified then. For analysis at this stage, though, these assumptions must be made.

Stipulating in the CAP that all water sources to be used for drilling purposes be from locations that are not connected to surface waters is bordering on being outside BLM jurisdiction. BLM can restrict the removal of water from sources on BLM-administered lands and can restrict ROWs if it determines that resources would be damaged and could not be mitigated, with some exceptions (such as pre-FLPMA grandfathered rights). Water rights, however, are under the jurisdiction of the State of Wyoming and not BLM. Should water use affect surface flows, the USFWS has established a mitigation fee based on the average annual amount that is consumed or “depleted” from the system that is used for species recovery.

Comment Number: 100,455

Comment:

The section in chapter 4 on impacts to groundwater is a perfect example about how the impact analysis of every section of the supplemental draft EIS is lacking. At page 4-13, the EIS discusses the impacts of oil and gas leasing and development on groundwater. However, the EIS makes no effort to incorporate and address environmental impacts from the reasonably foreseeable development scenario of wells planned for in the JMH. By extension, the EIS fails to address impacts of likely places of development in relationship to the location of waterways and what aquifers will be passed through to target formations.

Response:

The Green River RMP and this plan provide for protection of groundwater resources. Standard Stipulations applied to all developments within the BLM Rock Springs Field Office help to prevent and reduce environmental damage. The impacts to groundwater discussed on Page 4-13 would be inclusive of the reasonably foreseeable development scenario.

The RFD is an estimate. There are multiple development scenarios, and the location and concentration of surface disturbance are vital factors in determining impact estimations. However, the exact future location and number of wells is unknown at present. Therefore, the site-specific impacts to groundwater cannot be determined at the CAP level. A site-specific analysis would be conducted on drilling activities once projects are proposed, which would provide more detailed information on impacts.

Comment:

Information on coalbed methane (CBM) production is also lacking. What are the water handling methods? Where will CBM occur? How will monitoring take place? Where is data from the four existing wells?

Response:

Produced water will not be discharged onto the surface under any of the management alternatives; DEQ guidelines and regulations will be followed. The exact location of shallow gas development is unknown at present. Details regarding the exact location of wells would be included in a separate site-specific analysis, which would be conducted on drilling activities once projects are proposed. Monitoring of CBM development and production would be conducted in accordance with DEQ guidelines and regulations. Regarding existing well data, there are no CBM projects currently operating in the JMH CAP planning area. The four wells referred to are test wells, and information from these wells is available in Appendix 13.

Comment:

For all oil and gas, what is effectiveness of mitigation measures and stipulations on leases? How will surface and ground water impacts vary by different leasing alternatives (no leasing, special stipulations, NSO stipulations, etc.)? The same analysis is missing for location of all infrastructure such as pipelines, power lines, compressor facilities, etc. What about hydraulic fracturing and its impacts on groundwater resources? What about CBM and subsidence, impacts of SAR/EC on surface waters; water quantity in gpm per well as it will vary by coal seam? None of this information is provided or analyzed on its impacts to surface and groundwater within the JMH CAP planning area.

Response:

The effectiveness of any given mitigation measure or stipulation varies with condition and location. Monitoring the effectiveness of the various tools available and making adjustments as conditions dictate would be practiced.

As described in Chapter 4, Environmental Consequences, it is assumed that the level of impact from mineral development would vary by the amount of development that could potentially occur under each alternative. Therefore, alternatives that impose greater restrictions through stipulations would result in less impact.

The gathering of groundwater and geologic data and related impact analysis requires knowledge of the structure and composition of the underlying geology. This information will be gathered as development occurs. Proper well drilling and completion methods and surface mitigation measures will help to minimize potential contamination of the groundwater resource during the data gathering process.

Handling and disposal of produced water will meet DEQ guidelines. There are no planned surface discharges. Injection zones will need to meet DEQ approval and be of equal or lower water quality. The potential effects of hydrologic fracturing are unknown at present resulting from a lack of data for the area. The procedure of locating injection zones takes the degree of isolation and the water quality of each injection zone and is dealt with on a sight specific procedure that must be approved by the DEQ.

Comment:

The maintenance of natural hydrographic patterns and processes is crucial to maintaining riparian communities. According to Ohmart (1996), "Natural floods play a vital role in the functioning and health of riparian systems" (p. 249). Thus, BLM activities with the potential to alter stream flows or retard flooding should be avoided. Riparian areas should be the focus of monitoring efforts, as these areas can become ecologically impaired before upland habitats begin to show signs of damage. Riparian areas should be a management indicator in any adaptive management strategy that is implemented for the Jack Morrow Hills.

Response:

BLM agrees that riparian health is important. Riparian areas are already identified as an indicator in the “Wyoming Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for the Public Lands Administered by the Bureau of Land Management in the State of Wyoming” (Appendix 10). These standards have been incorporated into the monitoring strategy (Appendix 17) as a resource management indicator (Tables A17-1 and A17-2). Please see Appendix 17 in the final EIS for further clarification and description of the standards and indicators.

Proposed changes in the BLM management direction based on the review of public comments and the incorporation of new information has resulted in reformulation of the implementation strategy to include a more traditional monitoring and adjustment approach. Please refer to the updated version of Appendix 17 in the final EIS for details.

Comment Number: 100,456**Comment:**

The accompanying map shows the known locations of select waters and wetlands in the Jack Morrow Hills Area. Specifically, the map shows (1) the locations of lakes and streams as identified in the U.S. Geological Surveys Digital Line Survey (DLG) data for the area, and (2) the locations of wetlands identified in the BLM’s Wetland GIS coverage for the area. These maps include a 100-foot buffer for non-perennial and a 500-foot buffer for perennial streams, lakes and ponds, as listed in the draft EIS. However, we feel much larger buffers (e.g., 1,000 to 2,500) are needed.

It should also be noted that this map does not show all water bodies and wetlands in the area.

Springs and seeps are generally not shown, and there are more wetlands in the area than are depicted on the map. For the final EIS, the BLM should consult the National Wetlands Inventory, topographic maps, and other sources to ensure all water bodies and wetlands are identified and protected from development.

Response:

BLM has analyzed a larger surface disturbance avoidance area in Alt. 2 (¼ mile, which is 1,320 feet). The distance of 500 feet as a minimum standard has proven to be sufficient based on actual practice and field observations. In specific instances, based on site-specific evaluation, this distance could be increased, if needed, at the BLM’s discretion. It could also be reduced if mitigation measures were in place to protect the resource or if the action would not adversely affect riparian/wetland areas or water sources. Note also that riparian/wetland areas are exclusion areas for permanent facilities unless they would benefit those resources (e.g., fences, in-stream structures).

The BLM uses the U.S. Fish and Wildlife Service National Wetlands Inventory maps as a tool for regional and local analysis. The maps included in the supplemental draft EIS are not of sufficient scale to clearly represent all the available data.

A-19.7 WILD HORSES MANAGEMENT**Comment Number: 100,095****Comment:**

I support a reduction in the wild horse herd.

Response:

Under all alternatives, wild horses will be managed for the existing Appropriate Management Level (AML) of 415 to 600 animals.

Comment Number: 100,342**Comment:**

The document should re-state the BLM's commitment to comply with the Agreement with the Rock Springs Grazing Association on the subject of wild horses, and present a firm timetable and BLM budget commitment for this to actually occur.

Response:

The Bureau's commitment is to accommodate the wishes of owners of unfenced fee title lands within established Herd Management Areas (HMA). No changes in this situation are proposed in the plan. The suggested statement is not necessary.

Comment Number: 100,390**Comment:**

BLM must implement a strategy for controlling the growing wild horse herd and bringing the herd numbers back down to the appropriate population levels.

Response:

Such a strategy already exists in HMPs and Land Use Plans. Wild horse gathering is subject to many variables, including national and state priorities as well as funding from Congress. During fall 2003, wild horses were removed from the Great Divide Basin Herd Management Area, which includes the eastern portions of the Jack Morrow Hill Planning Area. The wild horse population is currently at the AML of 415 to 600 horses.

Comment Number: 100,391**Comment:**

Horse cannot read and don't care about peoples silly rules and plans. They are going to travel wherever their particular needs of the moment take them. They are the dominant species that lives full time in the desert. As such they can be very competitive and very destructive in the pursuit of their needs; especially when their population numbers are large. The "Preferred Alternative" proposes only managing the horses in the eastern third of the JMH CAP planning area. The horses need to be managed throughout the whole JMH CAP planning area along with the rest of the desert.

Response:

It is unclear from your comment whether you are suggesting that the Wild Horse HMA be expanded to include the entire planning area as analyzed in Alternative 2, or suggesting that all horses outside the existing HMA be removed. Wild horses outside established HMAs are not "managed"; by definition, they are "excess" and are subject to removal at anytime subject to budgetary and adoption demand limitations.

Comment Number: 100,451**Comment:**

The Preferred Alternative's management plan for horses, which maintains the herd level at 415-600 horses, may work in the immediate future in theory. However, in the long term this number must be lowered to the bottom of the range because by the time round-ups are scheduled and actually completed the horse numbers rise above the upper limits, and subsequent round-ups accomplish only enough to bring the numbers back to upper limits.

Response:

Whenever possible, HMAs are reduced to the low range of the AML.

A-19.8 LIVESTOCK GRAZING MANAGEMENT**Comment Numbers: 100,342; 100,343****Comment:**

If areas are rested from livestock grazing, they should also be rested from grazing by horses and concentrations of large wildlife. Monitoring plan and the actual field level allotment monitoring should be conducted jointly by the BLM and permittees.

Response:

It is not feasible to provide rest from grazing by wild horses and wildlife. Keeping wild horse numbers at AMLs in the wild horse herd area will protect the resource. Wildlife numbers are managed by the WGFD. The numbers of AUMs used in the planning area by wild horses and wildlife is minor compared with livestock grazing (see Table 4-11).

For livestock grazing activities, monitoring plans will be developed jointly with operators and all parties involved are invited to participate in the monitoring efforts. The "Wyoming Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for the Public Lands Administered by the Bureau of Land Management in the State of Wyoming" also support working with grazing permittees and other interested parties. See Appendix 10 of the supplemental draft EIS.

Comment:

Guidelines for Livestock Grazing Management. The narrative at this section should provide for the flexibility to evolve with possible changes in BLM Grazing Regulations and policies on the subject of Standards and Guidelines. In addition, this narrative should state an intention to always consult with the permittee before any technical evaluation of his/her allotment is conducted by the BLM.

This plan should state a BLM commitment to the use of good quality monitoring data, not just qualitative observation, on every subject in the S & G process. We also comment that this document should preclude serious consideration of information from any "studies" of rangelands by persons or organizations that are not supportive of multiple use and not recognized as rangelands professionals.

Response:

The flexibility to evolve with possible changes in BLM grazing regulations is currently in place. If regulations change, land use plans can be updated with plan maintenance and modification actions.

It is standard operating procedure to always consult with the permittee before any technical evaluation of allotments.

The best available data is used for management determinations made under the Wyoming Standards for Healthy Rangelands review process. These data can be either qualitative or quantitative. BLM will need to evaluate all data before precluding or giving serious consideration to data in this activity plan.

Comment:

Forage Utilization Levels. We agree with the BLM's National Riparian Team on this subject when they convey, "PFC assessments identify possible stream hydrology problems only." PFC was never intended by the authors as a decision tool. It was developed as a first approximation qualitative assessment process. PFC should not be the basis for management prescriptions; it is at best a starting point for monitoring, never an "end point" for assessing riparian areas.

Response:

PFC assessments and other methodology are used to make variety of decisions. PFC is only part of the data collected that leads up to a management prescription. PFC does not determine the cause of the impact.

Comment Number: 100,343

Comment:

Vegetation Treatments: Resting one year prior to treatment and 24 months after treatment does not provide enough flexibility. A site-specific evaluation by the BLM in consultation with the permittee should determine the time necessary for rest prior to treatment and after treatment.

Response:

The various management alternatives allow for different levels of flexibility regarding rest periods for vegetation treatment areas. The Preferred Alternative provides this flexibility based on a site-specific analysis.

The standard operating procedures for vegetation treatments include a site-specific NEPA document. In addition, Appendix 8 explains that consultation is required for all range improvement projects.

Comment:

We support the flexibility allowed by guidelines to address management practices at the AMP level. Management actions to maintain or improve undesirable rangeland conditions within reasonable time frames can be determined on a site-specific basis, rather than one prescription fits all, as in the previous plan. The statement "Management actions could include" suggests that the list that follows is not all-inclusive. However, the document could be strengthened if the narrative reflected that management actions not included could be added if good science supported new practices, or if new BLM Grazing Regulations and policies on the subject of S&Gs were adopted.

Response:

This paragraph (draft EIS, page 2-10) has been modified in the final EIS to clarify that management actions could include what is listed but would not be limited to such actions.

Comment Number: 100,376**Comment:**

The JMHCAP should provide a clear and binding schedule for ensuring that the three steps the grazing rules establish for determining if grazing needs to be modified are accomplished in a timely manner. For allotments that have already been assessed, provisions should be made in the JMHCAP for future assessments and determinations. The standards and guidelines are intended to be an ongoing, prominent factor in grazing management, and the Fundamentals of Rangeland Health are continuing requirements.

Response:

All allotments within the JMHCAP planning area have been assessed for rangeland condition under the “Wyoming Standards for Healthy Rangelands.” A formal Standards reassessment schedule is unavailable. Regular, informal monitoring and allotment visits are standard operating procedure to ensure that allotments are meeting all terms and conditions of their use permit. If potential problems are identified, modifications to grazing use can be made at that time, and a formal Standards assessment may be conducted.

Comment:

We note, with some confusion, that the supplemental draft EIS claims that all grazing allotments on the Jack Morrow Hills “meet the standards for healthy rangelands, (supplemental draft EIS at 3-8), despite BLM’s admission that “no information is available to date supporting state water quality standards for any of the allotments” (supplemental draft EIS at 3-8). Since compliance with state water quality standards is Standard #5 of the Standards for Healthy Rangelands and Guidelines for Livestock Grazing Management for the Public Lands Administered by the Bureau of Land Management in the State of Wyoming, it is unclear just how that standard can be met without any supporting data. Moreover, Standard #2 of Wyoming’s standards and guidelines for Healthy Rangelands requires that: Riparian and wetland vegetation has structural, age, and species diversity characteristics of the stage of channel succession and is resilient and capable of recovering from natural and human disturbance in order to provide forage and cover, capture sediment, dissipate energy, and provide for groundwater recharge. Since the vast majority of riparian areas and wetlands on the planning area are not in proper functioning condition, it is difficult to imagine how all of the allotments on the Jack Morrow Hills are in compliance with Standard #2.

We also find this conclusion incredible given the recent determinations in the Green River Resource Management Plan (GRRMP) that at least four of the fifteen allotments (Fourth of July, Pacific Creek, Steamboat Mountain, and Sands) on the Jack Morrow Hills are category “I” (GRRMP Appendix 9-1).

Response:

This was incorrectly stated in the supplemental draft EIS and has been clarified in the final EIS. Some allotments are not meeting the “Wyoming Standards for Healthy Rangelands.” Please refer to Chapter 3 of the final EIS for clarification.

Comment:

The JMHCAP should adopt mandatory measures to address the impacts of grazing in riparian areas. BLM’s Riparian-Wetlands Initiative acknowledged the importance of ensuring that livestock grazing is compatible with riparian habitat protection, and set an ambitious goal for the agency to achieve. It is now years past the deadline set in the Initiative. BLM has no excuse for failing now to ensure the Initiative’s goals are finally achieved. This may require reducing or eliminating livestock grazing in some riparian areas.

Response:

As stated in Table 2-1, appropriate actions are implemented on allotments that are not in compliance with the “Wyoming Standards for Healthy Rangelands” (2-105). Such measures may include, but are not limited to the following: reduction of permitted AUMs, modified turnout dates, development of range improvements, shorter grazing periods, growing season rest, the use of riparian pastures and/or enclosures, implementation of forage utilization levels, and the use of livestock conversions (2-106).

BLM has implemented the RWI into its management policy. Although all goals stated in the RWI may not have been achieved to date, management actions are designed to ultimately reach those goals.

The “Wyoming Standards for Healthy Rangelands” (which include a riparian component) provide a desired condition for all rangelands within the planning area. BLM works with permittees and other interested publics to develop strategies to achieve those standards.

Comment:

Upland areas may require special livestock management in order to ensure the restoration of fragile areas and cryptobiotic soils or to protect remnant high condition/seral stage vegetation. BLM should not rely on water developments as a way to transfer grazing pressure from riparian areas to other (usually upland) areas. This approach often does not solve problems; it just moves them from ecosystems with a relatively high ability to recover due to the availability of water (riparian areas) to ecosystems with little or no ability to recover from excessive livestock grazing (uplands).

Response:

A variety of measures are used to comply with the “Wyoming Standards for Healthy Rangelands.” BLM monitors upland areas and makes adjustments to livestock grazing as necessary (supplemental draft EIS, page 2-10).

Comment:

Requirements related to the Clean Water Act were mentioned above, but they bear repetition in the context of livestock grazing. BLM should ensure there is sufficient water quality monitoring relative to the impacts of livestock grazing and take concrete steps to guarantee that livestock grazing does not adversely impact water quality or impair designated beneficial uses of these waters.

BLM must collect all data necessary to evaluate and achieve compliance with water quality standards, including, in particular, standards related to TDS, ammonia, nitrogen, fecal coliform bacteria, and turbidity.

Response:

The “Wyoming Standards for Healthy Rangelands” (including a riparian component) provides a desired condition for all rangelands within the planning area. The BLM works with permittees and other interested publics to develop strategies to achieve those standards.

Water quality is the purview of the State of Wyoming through the DEQ. For its part, the BLM works to maintain healthy vegetation and soil conditions, which in turn help in the retention and filtering of water resources. Complete water quality data are unavailable and not easily attainable.

Comment:

We ask that BLM specifically address compliance with the “Comb Wash Decision” in the final EIS and the land use plan itself. *National Wildlife Federation v. BLM*, 140 IBLA 85 (1997): This decision not only affirmed the longstanding rule that NEPA requires the BLM to analyze the site-specific impacts of grazing, but also that it must engage in “reasoned decision-making” on the question of whether to allocate lands and associated resources to this particular use. The final EIS should include the required analysis of site-specific impacts of grazing and the required discussion of the balancing of values that will ensure grazing best meets the present and future needs of the American people. As noted above, this balancing is required so as to meet the requirement that public lands are managed on the basis of multiple use and sustained yield (see 43 U.S.C. §§ 1702(c), 1732(a)). The Comb Wash Decision held that this balancing is mandatory, and the plan should reflect that this balancing was carried out on a site-specific basis.

Response:

The JMH CAP provides a range of alternatives, which allows for the balance of land uses, including livestock grazing. Further site-specific analyses will be conducted at the permit renewal and allotment management plan stages and for future livestock grazing activity.

Comment:

BLM should determine the suitability of lands within the planning area for livestock grazing and the JMHCAP should require adjustments accordingly. There is no doubt BLM has this responsibility and authority. See 43 U.S.C. §§ 315 (grazing districts must be chiefly valuable for grazing), 315a (BLM can do “any and all things” necessary to manage grazing), 1701(a)(8) (public lands to be managed to protect environmental values), 1702(c) (multiple use management allows for areas to be deemed unsuitable for certain uses and requires consideration of relative resource values), 1712(a)-(c) (land use plans to be based on multiple use), 1712(d) (land use classifications can be modified or terminated), 1712(e) (allowing for elimination of principle or major uses), 1732(c) (revocation of permits authorized), 1752 (allowing discontinuation of grazing permits and a determination in land use plans of whether lands “remain available for domestic grazing”), 1903(b) (allowing for discontinuation of grazing pursuant to land use planning decisions). See also *Public Lands Council v. Babbitt*, 529 U.S. 728 (2000) (holding that allocation of forage in a land use plan pursuant to 43 C.F.R. § 4100.0-5 does not, on its face, violate the Taylor Grazing Act). Livestock grazing, like all land uses, should only occur in areas where it has been carefully determined, pursuant to the land use planning process, to be a suitable use of the land. The suitability determination should be made in the JMHCAP at two levels: (1) for the area as a whole and (2) for site-specific areas.

Particularly with respect to those lands currently under lease for oil and gas development, BLM should assess the potential conflicts between grazing and oil and gas production. Moreover, the agency should acknowledge that lease issuance may have constituted a de-facto determination that such lands are no longer chiefly valuable for grazing and should be removed from grazing districts within the planning area.

Response:

Suitability is a range management concept acknowledging that some vegetation can be inaccessible to livestock at certain times of the year if hillsides are too steep or water sources are too far away. Suitability also considers areas that are without vegetation such as bare ground or unstabilized sand dunes. The supplemental draft EIS used the best available data to estimate and disclose potential environmental impacts, as required by the NEPA. However, the planning team believes that actual grazing use, time and duration of use, and type of use is more important for study and comparison in the EIS. If problems with excessive actual use of livestock are identified, these should be addressed site specifically. The information and analysis in the supplemental draft EIS indicates that livestock grazing

use can occur in the area, and the “Wyoming Standards for Healthy Rangelands” and other management objectives can be achieved.

The potential conflicts between grazing and oil and gas production would be assessed in a site-specific analysis under NEPA when oil and gas developments are proposed.

The issuance of an oil and gas lease has no impact on livestock grazing. How, when, and to what extent the lease is developed is assessed in a site-specific analysis under NEPA when oil and gas developments are proposed.

Comment:

BLM itself notes that most allotments on the Jack Morrow Hills contain some lands “unsuitable for livestock grazing and areas suitable only for certain classes of livestock” (supplemental draft EIS at 3-7). Still, the supplemental draft EIS contains no description of lands that are or should be unsuitable, and no discussion of how or when such determinations will be made.

Response:

Data regarding the specific locations and extent of unsuitable livestock grazing areas is not available. The statement made on page 3-7 of the supplemental draft EIS was a general statement to convey that these lands exist in most allotments. The entire planning area has been determined suitable for livestock grazing (see Big Sandy Grazing EIS; Green River RMP). The unsuitable areas contained within the JMH CAP planning area are small, isolated parcels that are insignificant in size as compared with the entire planning area. This discussion has been further clarified in the final EIS.

Comment:

The supplemental draft EIS seems to suggest that determinations about the suitability of lands for livestock grazing will be deferred pending the completion or revision of allotment management plans (supplemental draft EIS at 3-8).

The document contains no schedule for preparation of AMPs or “other activity plans intended to serve as the functional equivalent of AMPs” (supplemental draft EIS at 2-11, 2-22).

Response:

It was not an intention of the supplemental draft EIS to suggest that determinations regarding the suitability of lands for livestock grazing will be deferred pending the completion or revision of AMPs.

AMPs are prepared as needed on a case-by-case basis. This need can be determined by monitoring or by the request of permittees or other users.

Comment:

We note with despair that the range of alternatives for livestock management addressed in the supplemental draft EIS is woefully inadequate. With the exception of Alternative 1, all of the alternatives, including Alternative 2, assume that use of AUMs in the planning area will be similar to historic levels (supplemental draft EIS at 4-39). Apparently, nothing BLM does to improve wildlife habitat, restore riparian areas and wetlands, and ensure compliance with statewide standards and guidelines will have any impact whatsoever on the numbers of livestock in the JMH CAP planning area. The EIS should at least take the requisite “hard look” at what the impact of reducing AUMs might be on the riparian areas and other fragile resources demonstrably at risk.

Response:

The “Wyoming Standards for Healthy Rangelands” provides a desired condition for all rangelands within the planning area. BLM works with permittees and other interested public to develop strategies to achieve those standards. Appropriate actions that may be taken to meet the “Wyoming Standards for Healthy Rangelands” could include the reduction of permitted AUMs, modified turnout dates, livestock water developments, range improvements, shorter grazing periods, growing season rest, riparian pastures, exclosures, implementation of forage utilization levels, and livestock conversions. Reducing AUMs is not always necessary to comply with the Standards. Other management actions can serve to reduce the impact of livestock grazing on rangeland resources and result in compliance with the Standards. The elimination of livestock grazing from all public lands in the planning area was considered in the Green River RMP EIS and the supplemental draft EIS, but it was dropped from detailed analysis in those documents (see supplemental draft EIS page 2-4).

Comment:

Alternative 1 assumes that livestock AUMs would increase to the level of permitted use. Without some demonstration that the lands on the Jack Morrow Hills have ever been grazed at that level, this is not a reasonable alternative for livestock management in this planning area.

Response:

This level is the full permitted use, which was analyzed under the Green River RMP. This was included in Alternative 1 to analyze the highest level of use that could potentially and legally occur provided that compliance with the “Wyoming Standards for Healthy Rangelands” was not jeopardized.

Comment Number: 100,379**Comment:**

Do you have relatively recent AMPs for your grazing allotments? We follow several grazing allotments on another BLM Resource Area. AMPs were promised for three of them in the RMP of 15 years ago. The plans have still not been developed. The leases for those allotments contain very few specifics. We were told that everything was okay because informal agreements had been reached with permittees and to formalize them would require more monitoring. That’s a problem we would welcome. The existing RMP does not state a general allocation of forage between wildlife, livestock and plant regeneration because such decisions should be site-specific. So that little detail of forage allocation is missing from the RMP, from the non-existent AMP and from the grazing lease. We sincerely hope the situation is not the same for your grazing allotments.

Response:

AMPs have been developed for all the major allotments. Additional AMPs would be developed on a case-by-case basis as needed.

Comment:

We strongly believe that systems of exclosures should be developed in All BLM Resource Areas. A system should include different and representative vegetation types and slopes, etc. We ask that you build several exclosures in the JMH with fence that can be crossed by most wildlife. We ask that these exclosures be maintained and at least several acres in size. Cages a square meter in size will not suffice. Sure, exclosures are expensive and time-consuming to build. But, as the saying goes, “They’re not making any more land; we’ll have to make do with what we’ve got. We ask that monitoring data from these exclosures be available at the Rock Springs Field Office and perhaps on the Internet. If you already

have such exclosures, please send us details of the location. If you do not have such exclosures, include in your final EIS the planned location and timeline for building and monitoring that you intend to enforce. If and when you are wise enough to withdraw all grazing leases, exclosures won't be necessary.

Response:

The use of exclosures is one the tools that may be used to facilitate monitoring healthy rangelands. The decision to develop an enclosure is addressed on a case-by-case basis. Currently, there is no plan detailing the future location or monitoring needs of exclosures.

Comment Number: 100,451

Comment:

On page 4-81, it is suggested that habitat fragmentation occurs when a "contiguous habitat is broken up (fragmented)..." This particular section goes on to describe the effects of roads on habitat. It does not address the result of fragmentation of a ranch due not to roads or oil and gas activity which are not the dominant threat to the area. The dominant threat to the area is the loss of a viable ranch. An operating ranch, with a functioning viable permit, is an asset.

The Preferred Alternative works to ensure the continued viability of our ranch. However, it would be encouraging if this were reinforced by some form of statement in the final EIS that recognized the value of an unfragmented ranch. An unfragmented ranch is devoid of weekend getaway cabins in the wild. Specifically, does the BLM consider an operating ranch, with its associated permit and scattered parcels of undeveloped land an asset and are we correct to assume that the BLM intends to continue working with us to ensure that the overall bureaucratic climate remains relatively accessible for the rancher to continue the operation?

Response:

The draft addresses only BLM-administered lands. No development projects are considered on private lands and therefore impacts, including fragmentation of private lands, would not occur.

Comment:

Section 3.2 (Heritage Resources) is of particular interest to us. Our livestock operation occurs within much of the South Pass Historic Landscape. Due to this location we have experienced how regulations impact our operation. Whether it is the location of a water tank or the route of a fence, our ranch presently deals with this landscape designation. We do not feel that any further regulation of the area would be appropriate beyond what the Preferred Alternative holds. If we are unable to develop water and build or maintain fences within this area, our operation will be put at a disadvantage compared to other areas. The restrictions, with exceptions, can work for us as they are currently suggested in the preferred alternative. However, within the South Pass Historic Landscape there occur other designations such as WSAs and Historic Trails. It is essential that these various layers of designation are contained enough so that when a project is proposed it is not subject to so great an amount of scrutiny that the project is lost to overlapping layers of regulatory burdens. For example, if a water well was proposed in the Historic Landscape, near a Historic Trail, and visible from a WSA then some accommodation must be made so that the project can move forward without dying from a collection or single issue related to the various resource concerns. In other words, we are hopeful that the Preferred Alternative is flexible enough to allow for exceptions and common sense. Livestock management is not an exact science and should therefore not be subject to extreme GIS scrutiny of the absolute proper place to locate a water development or fence.

Response:

In any situation, consideration is given to all resources and resource uses. Once all factors are analyzed, exceptions may be granted on a case-by-case basis.

Comment:

It seems rather strange that heritage resources will be exploited through interpretive signs and general signing of areas (as in signing trails - as opposed to simply letting people read a map) and in other areas locations are kept confidential to protect them (sites). Heritage resources include both Native American sites and Historic Trails. These resource concerns should be subject to no less scrutiny than a water tank. That is to say, if the location of a water tank must pass the visibility test, then the location of a site or trail should pass the identifiable test. In other words, to be consistent, the Final Plan should recognize that just as some Native American Sites are kept confidential to protect their integrity (confidentiality being an exception to signing) then the water tank should be granted an exception (that being the location will be visible from a WSA, an Historic Trail, and located within a sensitive viewshed).

Response:

Maintaining the confidentiality of specific heritage sites cannot be compared with granting a visibility exception to a water development. These are entirely different types of actions with different impact implications. Maintaining the confidentiality of heritage sites serves to protect against unauthorized collection and vandalism and has no impact on the viewshed. However, granting a visibility exception to a water development has a negative impact on the viewshed, and therefore needs to be addressed and analyzed differently.

Comment:

Specifically, the Continental Divide Trail, like some Native American sites, is simply there. It does not need to be signed, it does not need to be advertised, and it does not need to be exploited. Is it the intention of the Preferred Alternative to sign, locate, and publicize the side-route to the Continental Divide Trail? The Continental Divide Trail, as well as the Historic Trails, goes right through, or adjacent to, our private property. Most of our ground is unfenced and unsigned. We have a special relationship with these trails. It is a relationship built on mutual trust - trust that demands that our grazing permit remain viable complete with water developments, some fences, and the full compliment of AUMs and grazing seasons. If these are jeopardized then the trust is jeopardized. In turn, our property maintains its agricultural nature. We do not support signing of any trail, expansion of any WSAs, or any new WSAs.

Response:

The BLM's planning decisions only apply to BLM-administered public lands. However, the Rock Springs Field Office understands the need to work with private landowners and has done so for many years. The JMH CAP provides direction to resolve resource conflicts or mitigate any adverse impacts of resource use. An equally important purpose is to protect the long-term productivity of the public lands. The JMH CAP and the Green River RMP thus try to protect the economic and activity interests of all current users, while minimizing conflicts and maintaining basic soil, vegetation, and wildlife resources that future users will require.

In 1978 Congress designated the Continental Divide National Scenic Trail (CDT) as part of the National Trails System. National scenic trails "provide for maximum outdoor recreation potential and for the conservation and enjoyment of nationally significant scenic, historic, natural or cultural qualities of the areas through which such trails may pass." The Great Divide Basin is arguably one the toughest sections of the CDT simply because of the vast emptiness and lack of water. When BLM issued the Environmental Assessment for the Designation of the Continental Divide National Scenic Trail in 1998,

many comments suggested rerouting the trail to include the Continental Peak and Oregon Buttes area for inclusion into the trail system. People commented that this geographic area offers spectacular beauty, historical significance, wildlife values, and geological diversity compared to the location of the trail along the eastern rim of the Great Divide Basin. In the National Trails System Act, Congress approved of designating “side-trails” off the main designated trail to incorporate areas of interest such as the Continental Peak- Oregon Buttes area. The main route of the CDT is located out of the planning area. The Continental Peak side trail will not require any development because the trail will follow existing two track trails and short segments of cross-country travel appropriate for hikers and equestrian users. Signing would be addressed on a case-by-case basis and would be kept to a minimum. Use of the BLM-managed CDT in Wyoming is estimated as 20 to 40 through-hikers per year. BLM does not anticipate that use along the side-trail would be high, but the Continental Peak side trail certainly meets the standards that Congress set within the National Trails System Act.

Comment:

We suggest the management objective LVSTK-7 be changed to read, “Requests for conversions...available forage. Consideration will be given to the operators as to what type of livestock is most consistent with present or future operation needs.” It is necessary to include this change because requests for conversions can be delayed by environmental considerations that appear to have no end at times, and have the potential to cause economic harm to operators. Economic harm thrust upon a livestock operator is not necessarily conducive to long-term stability of an operation and by extension long term viability of a landscape.

We suggest the management objective LVSTK-15 be changed to read “Water sources may...and wildlife. Consideration will be given to the integrity and present and future needs of livestock operators.” It is necessary to include this change because livestock exist in or near the vicinity of the JMH CAP planning area at many times of the year. Specifically, we are concerned that the definition of crucial winter ranges could be manipulated so as to exclude cattle from areas in the summer, which in turn shifts the entire area into a defacto winter feed ground. Parts of the area are most certainly winter territory for livestock and wildlife. The importance being that the two are capable of existing in the same area at the same time - with water developments.

We suggest the management objective WH-8 be changed from “Fencing in...” to “Fencing in or out...” It is necessary to include this change because there exist areas where cattle bear the brunt of the horse use. In other words, moving the cattle to lessen the pressure on certain areas proves little due to the immediate influx of the horses. Consequently if the horse has absolute freedom to grub the range or riparian into the dirt, and the cow pays the penalty, then there exists little incentive for the livestock operator to work at improving the range, cattle distribution...The feral horse is certainly capable of environmental damage. It makes very little sense to demand water quality standards or range standards from a livestock operator when the horse is immune to the same test.

Response:

These are actions finalized in the Green River RMP EIS that were determined to be applicable to the JMH CAP planning area.

The BLM and the Proposed JMH CAP are mandated by FLPMA to operate under the principles of multiple-use, sustained yield, and environmental integrity. These principles, although simple in theory, are obviously difficult to put into practice. Every user of the public lands naturally wants his or her particular use to predominate with little restriction or interference from other users. A major purpose of the JMH CAP is to resolve such conflicts or mitigate any adverse impacts of resource use. An equally important purpose is to protect the long-term productivity of the public lands. The JMH CAP and the

