

Director's Protest Resolution Report

**Rawlins
Resource Management Plan**

December 24, 2008



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Reader's Guide

How do I read the Report?

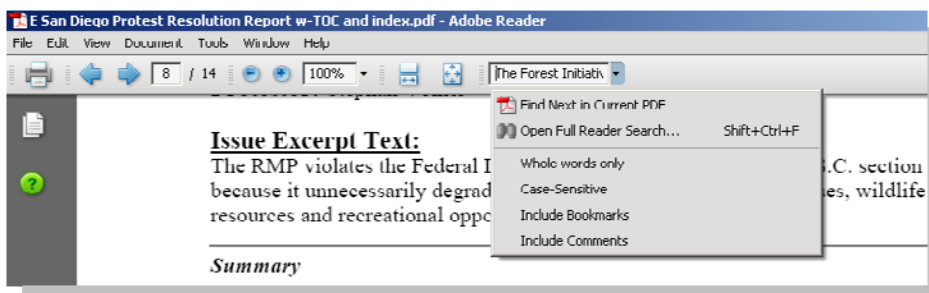
The Director's Protest Resolution Report is divided up into sections, each with a topic heading, excerpts from individual protest letters and the BLM's response to the statement.

Report Snapshot

Issue Topics and Responses			
NEPA	Topic heading	Submission number	
Issue Number:	PP-CA-ESD-08-08		
Organization/Individual:	The Forest Initiative	Protesting organization or individual	
Issue Excerpt Text:	Direct quote taken from the submission		
Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.			
Response	BLM's response to the summary statement or issue excerpt if there is no summary.		
Specific renewable energy projects are implementation-level decisions rather than RMP-level decisions. Upon receipt of an application for a renewable energy project, the BLM would require a site-specific NEPA analysis of the proposal before actions could be approved (FEIS Section 2.5.2, p. 2-137). Project specific impacts would be analyzed at that time (including impacts to			

How do I find my Protest Issues and Responses?

1. Find your submission number on the protesting party index which is organized alphabetically by protester's last name.
2. In Adobe Reader search the report for your name, organization or submission number (do not include the protest issue number). Key word or topic searches may also be useful.



List of Commonly Used Acronyms

ACEC	Area of Critical Environmental Concern		Act of 1966, as amended
APD	Application for Permit to Drill	NOA	Notice of Availability
ARPA	Archeological Resources Protection Act	NOI	Notice of Intent
AUM	Animal Unit Month	NRHP	National Register of Historic Places
BA	Biological Assessment	NSO	No Surface Occupancy
BLM	Bureau of Land Management	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
BMP	Best Management Practice	PM	Particulate Matter
BO	Biological Opinion	PMD	Prevention of Significant Deterioration
CAA	Clean Air Act	RCA	Raptor Concentration Area
CDNST	Continental Divide National Scenic Trail	RFDS	Reasonably Foreseeable Development Scenario
CEQ	Council on Environmental Quality	RMP	Resource Management Plan
CFR	Code of Federal Regulations	RMPPA	Resource Management Plan Planning Area
COA	Condition of Approval	ROD	Record of Decision
CSU	Controlled Surface Use	ROS	Recreation Opportunity Spectrum
DM	Departmental Manual (Department of the Interior)	ROW	Right-of-Way
DOI	Department of the Interior	SHPO	State Historic Preservation Officer
EA	Environmental Assessment	SO	Sulfur Oxide
EIS	Environmental Impact Statement	SRP	Special Recreation Permit
EO	Executive Order	T&E	Threatened and Endangered
EPA	Environmental Protection Agency	USC	United States Code
EQC	Wyoming Environmental Quality Council	VRM	Visual Resource Management
ESA	Endangered Species Act	WA	Wilderness Area
FEIS	Final Environmental Impact Statement	WDEQ	Wyoming Department of Environmental Quality
FLPMA	Federal Land Policy and Management Act of 1976	WGFD	Wyoming Game and Fish Department
FS	U.S. Forest Service	WHA	Western Heritage Alternative
FWS	U.S. Fish and Wildlife Service	WHMA	Wildlife Habitat Management Area
GIS	Geographic Information Systems	WSA	Wilderness Study Area
IB	Information Bulletin	WSRA	Wild and Scenic River Act
IM	Instruction Memorandum	WSR	Wild and Scenic River(s)
IMP	Interim Management Policy for Lands Under Wilderness Review		
MOU	Memorandum of Understanding		
NAAQS	National Ambient Air Quality Standards		
NEPA	National Environmental Policy Act of 1969		
NHPA	National Historic Preservation		

Protesting Party Index

Protesting Party	Organization	Submission Number	Determination
Baker, Sara J.		PP-WY-Rawlins-08-82	Dismissed - No standing
Baptiste, Mary Beth		PP-WY-Rawlins-08-72	Denied - Issues and Comments
Belz, Dorothea		PP-WY-Rawlins-08-95b	Dismissed - No standing
Berger, Jack		PP-WY-Rawlins-08-88	Dismissed - Only comments
Bitner, Albert Richard		PP-WY-Rawlins-08-64	Denied - Issues and Comments
Blair, Andrew		PP-WY-Rawlins-08-95c	Denied - Issues and Comments
Blair, Dan and Janet W.		PP-WY-Rawlins-08-74	Denied - Issues and Comments
Blomgren, Jan		PP-WY-Rawlins-08-95a	Dismissed - No standing
Blomgren, Joel		PP-WY-Rawlins-08-95d	Dismissed - No standing
Bonds, Cindy		PP-WY-Rawlins-08-20	Denied - Issues and Comments
Boyd, Donald W.		PP-WY-Rawlins-08-87	Dismissed - Only comments
Braun, Clait E.	Grouse Inc.	PP-WY-Rawlins-08-105	Denied - Issues and Comments
Britlinger, Anita and Bob Kryda		PP-WY-Rawlins-08-06	Dismissed - No standing
Brooks, Claire S. and Thomas S.		PP-WY-Rawlins-08-94	Dismissed - Only comments
Brown, David R.	BP America Production Company	PP-WY-Rawlins-08-100	Denied - Issues and Comments
Budenske, Mary Ann		PP-WY-Rawlins-08-01	Dismissed - No standing
Budenske, Mary Ann		PP-WY-Rawlins-08-50	Dismissed - No standing
Bullock, Lois		PP-WY-Rawlins-08-44	Dismissed - Only comments

Protesting Party	Organization	Submission Number	Determination
Churchman, Pat		PP-WY-Rawlins-08-37	Dismissed - Only comments
Clark, Norma		PP-WY-Rawlins-08-70	Dismissed - Only comments
Clayson, Tom	Anadarko Petroleum Corporation	PP-WY-Rawlins-08-102	Denied - Issues and Comments
Conklin, Grace		PP-WY-Rawlins-08-95e	Dismissed - No standing
Corsick, Diane		PP-WY-Rawlins-08-68	Dismissed - No standing
Crane, Peter and Eva		PP-WY-Rawlins-08-18	Denied - Issues and Comments
Crone, Martie		PP-WY-Rawlins-08-30	Denied - Issues and Comments
Dailey, Miriam		PP-WY-Rawlins-08-41	Denied - Issues and Comments
Dibrito, Larry		PP-WY-Rawlins-08-40	Dismissed - Only comments
Dominick, Jane		PP-WY-Rawlins-08-63	Dismissed - Only comments
Dowd, Patricia		PP-WY-Rawlins-08-55	Denied - Issues and Comments
Earles, Brent		PP-WY-Rawlins-08-95f	Dismissed - No standing
Engle, Alan		PP-WY-Rawlins-08-56	Dismissed - No standing
Espy, John	Blake Sheep Company	PP-WY-Rawlins-08-98	Granted in part
Espy, John	Blake Sheep Company	PP-WY-Rawlins-08-99	Granted in part
Espy, John	Blake Sheep Company	PP-WY-Rawlins-08-109	Granted in part
Forrester, Mary G.		PP-WY-Rawlins-08-71	Denied - Issues and Comments
Freeman, A.		PP-WY-Rawlins-08-95g	Dismissed - No standing
Fujimoto, Shirley S.	Union Telephone Company	PP-WY-Rawlins-08-97	Granted in part

Protesting Party	Organization	Submission Number	Determination
Garvey, Lydia		PP-WY-Rawlins-08-09	Dismissed - Only comments
Gay, Mary		PP-WY-Rawlins-08-31	Denied - Issues and Comments
Grathwohl, Marya		PP-WY-Rawlins-08-36	Dismissed - No standing
Griscom, Hannah		PP-WY-Rawlins-08-75	Denied - Issues and Comments
Guenther, William C.		PP-WY-Rawlins-08-33	Dismissed - Only comments
Handelsman, Robert		PP-WY-Rawlins-08-85	Dismissed - Only comments
Hansen, Val and Ken		PP-WY-Rawlins-08-05	Denied - Issues and Comments
Hazen, Virginia		PP-WY-Rawlins-08-95h	Dismissed - Only comments
Hittel, F. Earline		PP-WY-Rawlins-08-46	Denied - Issues and Comments
Homan, Jeffrey		PP-WY-Rawlins-08-78	Dismissed - No standing
Irons, Dr. Forest		PP-WY-Rawlins-08-54	Dismissed - Only comments
Jacobs, Kirk and Ann		PP-WY-Rawlins-08-95i	Dismissed - No standing
Jansa Corcoran, Joyce		PP-WY-Rawlins-08-42	Denied - Issues and Comments
Johnson, Wally, Larry Hicks, Mary Thoman, Kent Connelly	Coalition of Local Governments	PP-WY-Rawlins-08-103	Granted in part
Johnson, Wally, Larry Hicks, Mary Thoman, Kent Connelly	Coalition of Local Governments	PP-WY-Rawlins-08-106	Granted in part
Jones, Darci		PP-WY-Rawlins-08-80	Dismissed - No standing
King, Karen		PP-WY-Rawlins-08-60	Denied - Issues and Comments
Knauer, Dean		PP-WY-Rawlins-08-95j	Dismissed - No standing

Protesting Party	Organization	Submission Number	Determination
Kofoed, Teresa		PP-WY-Rawlins-08-95k	Dismissed - No standing
Korb, Carol		PP-WY-Rawlins-08-95l	Dismissed - No standing
Lamb, Jeff		PP-WY-Rawlins-08-19	Dismissed - No standing
LaPoint, Peggy B.		PP-WY-Rawlins-08-08	Denied - Issues and Comments
Laybourn, Robert J.		PP-WY-Rawlins-08-25	Dismissed - No standing
Leedy, Gail		PP-WY-Rawlins-08-03	Dismissed - No standing
Leske, Jeanne		PP-WY-Rawlins-08-95m	Denied - Issues and Comments
Leung, Guy		PP-WY-Rawlins-08-66	Dismissed - No standing
Lipes, Michele		PP-WY-Rawlins-08-95n	Dismissed - No standing
Lugotzke, Barbara E.		PP-WY-Rawlins-08-10	Denied - Issues and Comments
Madsen, Virginia		PP-WY-Rawlins-08-57	Dismissed - No standing
Manahan, Ted		PP-WY-Rawlins-08-61	Denied - Issues and Comments
Marquart, Ron		PP-WY-Rawlins-08-53	Denied - Issues and Comments
Marriott, Hollis		PP-WY-Rawlins-08-45	Denied - Issues and Comments
Martinez del Rio, Aurora, Carlos, Cormac, and Martha		PP-WY-Rawlins-08-79	Denied - Issues and Comments
Mathes, Robert C.	Bjork, Lindley, and Little	PP-WY-Rawlins-08-90	Denied - Issues and Comments
Mathes, Robert C.	Bjork, Lindley, and Little	PP-WY-Rawlins-08-96	Denied - Issues and Comments
Mattesen, Betina		PP-WY-Rawlins-08-69	Dismissed - Only comments

Protesting Party	Organization	Submission Number	Determination
Matthews, Melanie		PP-WY-Rawlins-08-95o	Dismissed - No standing
Mayer, Sigrid		PP-WY-Rawlins-08-38	Denied - Issues and Comments
Meade, Ken		PP-WY-Rawlins-08-35	Dismissed - Only comments
Meadows, Dwayne M.		PP-WY-Rawlins-08-93	Denied - Issues and Comments
Michael A. Saul,	National and Wyoming Wildlife Federations	PP-WY-Rawlins-08-101	Denied - Issues and Comments
Miller, Joyce M.		PP-WY-Rawlins-08-39	Denied - Issues and Comments
Miller, Susan B.		PP-WY-Rawlins-08-17	Dismissed - No standing
Miller, William J.	Power Company of Wyoming, LLC	PP-WY-Rawlins-08-108	Dismissed - No standing
Mollica, Chuck		PP-WY-Rawlins-08-65	Denied - Issues and Comments
Molvar, Erik	Biodiversity Conservation Alliance	PP-WY-Rawlins-08-89	Granted in part
Morrison, Mary Lou		PP-WY-Rawlins-08-16	Denied - Issues and Comments
Murnan, Jennifer		PP-WY-Rawlins-08-11	Dismissed - Only comments
Murphy, Joseph A.		PP-WY-Rawlins-08-86	Dismissed - No standing
Neal, Chuck		PP-WY-Rawlins-08-95p	Denied - Issues and Comments
Parsons, Barbara		PP-WY-Rawlins-08-32	Denied - Issues and Comments
Paskett, Sherrie		PP-WY-Rawlins-08-95q	Dismissed - No standing
Patterson, Cynthia and Peter J. Schrand		PP-WY-Rawlins-08-02	Denied - Issues and Comments
Pendery, Bruce	Wyoming Outdoor Council et al.	PP-WY-Rawlins-08-107	Denied - Issues and Comments

Protesting Party	Organization	Submission Number	Determination
Peternell, Judy		PP-WY-Rawlins-08-22	Denied - Issues and Comments
Ratner, Jonathan B.	Western Watersheds Project	PP-WY-Rawlins-08-14	Denied - Issues and Comments
Richards, Susan L.		PP-WY-Rawlins-08-27	Dismissed - No standing
Rist, Joanne		PP-WY-Rawlins-08-95r	Dismissed - No standing
Rubio, M.		PP-WY-Rawlins-08-26	Dismissed - No standing
Runnels, Jack		PP-WY-Rawlins-08-95s	Denied - Issues and Comments
Sanders, Byril J.		PP-WY-Rawlins-08-29	Dismissed - Only comments
Satake, Joe and Jan		PP-WY-Rawlins-08-23	Dismissed - No standing
Simmons, Kevin C.	Shell WindEnergy Inc.	PP-WY-Rawlins-08-104	Granted in part
Souther, Kelly		PP-WY-Rawlins-08-12	Dismissed - No standing
Spence, Kathryn		PP-WY-Rawlins-08-95x	Dismissed - No standing
Spezia, John		PP-WY-Rawlins-08-67	Dismissed - Only comments
Spielvogel, Barry		PP-WY-Rawlins-08-95t	Dismissed - No standing
Spielvogel, Barry		PP-WY-Rawlins-08-95u	Dismissed - No standing
Spillman, Bill		PP-WY-Rawlins-08-49	Denied - Issues and Comments
Sprinkler, Marilyn J.		PP-WY-Rawlins-08-48	Dismissed - No standing
States, Jim and Carol		PP-WY-Rawlins-08-92	Denied - Issues and Comments
Stout, Mary Ann		PP-WY-Rawlins-08-07	Denied - Issues and Comments
Strayer, Bob		PP-WY-Rawlins-08-76	Denied - Issues and Comments

Protesting Party	Organization	Submission Number	Determination
Streeter, Jeffrey W.		PP-WY-Rawlins-08-62	Dismissed - No standing
Swanson, John		PP-WY-Rawlins-08-59	Dismissed - Only comments
Taylor, Paul		PP-WY-Rawlins-08-21	Denied - Issues and Comments
Thomas, Dennis		PP-WY-Rawlins-08-81	Denied - Issues and Comments
Throgmorton, Christine		PP-WY-Rawlins-08-24	Dismissed - No standing
Throgmorton, Ph.D., David		PP-WY-Rawlins-08-58	Dismissed - No standing
Trotter, Joan		PP-WY-Rawlins-08-73	Dismissed - No standing
Troxel, Jeff		PP-WY-Rawlins-08-84	Dismissed - No standing
Turley, Paul		PP-WY-Rawlins-08-13	Dismissed - No standing
Vanderhoef, Tyler H.	Gene R. George and Associates, Inc.	PP-WY-Rawlins-08-91	Dismissed - Only comments
Varley, Ed and Rae Dell		PP-WY-Rawlins-08-52	Dismissed - No standing
Vinson, Toni Ranta		PP-WY-Rawlins-08-34	Dismissed - No standing
Ward, Bertha		PP-WY-Rawlins-08-83	Denied - Issues and Comments
Weber, Jana		PP-WY-Rawlins-08-43	Dismissed - Only comments
Wilson, Judith		PP-WY-Rawlins-08-95v	Dismissed - No standing
Winkel, John		PP-WY-Rawlins-08-47	Dismissed - No standing
Wischmann, Lesley		PP-WY-Rawlins-08-77	Denied - Issues and Comments
Wolfe, James R.	Continental Divide Trail Society	PP-WY-Rawlins-08-28	Denied - Issues and Comments
Woyciechowicz, Tova		PP-WY-Rawlins-08-51	Denied - Issues and Comments

Protesting Party	Organization	Submission Number	Determination
Zentura		PP-WY-Rawlins-08-95w	Denied - Issues and Comments

Issue Topics and Responses

National Environmental Policy Act (NEPA)

Issue Number 1: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The analysis of impacts, both direct and cumulative, presented in the EIS is deficient on a number of different fronts, failing to provide an adequate level of analysis to support leasing for oil and gas, wind energy development, uranium mining and milling, and other industrial uses of the land.”

Response:

The Rawlins Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS) complies with the NEPA in analyzing and disclosing the environmental impacts for the Proposed Plan and each of the alternatives. In Chapter 4 of the PRMP/FEIS, the BLM has provided an adequate and reasonable analysis that leads to a logical conclusion of the potential environmental consequences of the Proposed Plan (Alternative 4) and other alternatives. The protester expresses specific concerns relating to the BLM’s deference of impact analysis for leasing oil and gas, wind energy development, uranium mining and milling, and other industrial uses of the land. The discussion of direct and indirect effects in the PRMP/FEIS addresses the impacts from oil and gas exploration and development, wind energy development, uranium (locatables) “exploration,” and other industrial uses. No substantial “development potential” is foreseen for locatable minerals (including uranium), therefore, impacts from uranium development (mining and milling) was not addressed in Chapter 4 of the PRMP/FEIS (refer to pp. 4-84 and A33-7). The incremental (cumulative) impacts to the environment is adequately described in Chapter 4 of the Rawlins PRMP/FEIS (refer to pp. 4-486 through 4-531). Further NEPA analysis will be conducted to assess site-specific environmental impacts when oil and gas, wind energy, uranium mining and milling, or other ground disturbing activities are proposed.

Issue Number 2: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM has failed to present a range of reasonable alternatives in the EIS, failing to provide even a single alternative that balances oil and gas development with conservation-needs, and provides an ecologically sustainable context for industrial uses in the Rawlins Resource Management Plan Planning Area [RMPPA].”

Issue Number 3: PP-WY-Rawlins-08-105

Organization: Grouse Inc.

Issue Excerpt Text:

“The National Environmental Policy Act [NEPA] requires that BLM consider a wide range of reasonable alternatives. . . . [T]he four alternatives do not represent a wide range of what could be considered reasonable actions for sage-grouse.”

Issue Number 4: PP-WY-Rawlins-08-74

Individuals: Dan and Janet W. Blair

Issue Excerpt Text:

“The agency is required to consider a range of reasonable alternatives. It has failed to adequately balance industrial uses including oil and gas drilling with the competing needs of wildlife conservation and public recreation...The main emphasis of every BLM alternative was heavy drilling....”

Response:

The Bureau of Land Management (BLM) considered a reasonable range of alternatives in the PRMP/FEIS in full compliance with the NEPA. Four alternatives were analyzed in detail in the PRMP/FEIS. The alternatives and management options considered but eliminated from detailed analyses are further explained in section 2.3.3 (refer to pp. 2-7 through 2-11).

The BLM’s range of alternatives represented the full spectrum of options including a no action alternative (Alternative 1); an alternative emphasizing resource use (Alternative 2); an alternative emphasizing conservation and constraints to resource use (Alternative 3); and a Proposed Plan (Alternative 4) that increases conservation of resources compared to current management and “emphasizes moderate constraints on leasing for oil and gas and other (leasable) solid minerals” (refer to pp. 2-11 through 2-16). The management strategies considered range from the increased conservation and protection of natural, recreation, and cultural values and intensive management of surface-disturbing activities to an alternative focused on energy and commodity development with “the least protective management actions for physical, biological, and heritage resources (refer to pp. 2-12 through 2-13).”

The BLM acknowledges that there could be a very large number of variations to alternatives put forth in the Rawlins planning process. However, the BLM is not required to analyze in detail each variation, including those determined not to meet the RMP’s purpose and need, or those determined to be unreasonable given BLM mandates, policies, and programs including the Federal Land Policy and Management Act of 1976 (FLPMA) and other Federal laws and regulations applicable to public lands. The Council on Environmental Quality (CEQ) addressed this issue as follows: “For some proposals there may be a very large or even an infinite number of reasonable alternatives....When there are potentially a very large number of alternatives, only a reasonable number of examples, covering the full spectrum of alternatives, must be analyzed and compared in the EIS” (Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, 46 Fed. Reg. 18,026, 18,031 (March 23, 1981)). Each of the alternatives considered and analyzed in detail achieves the purpose and need for the plan, can be implemented, and addresses all significant issues. The BLM’s Approved Plan is the result of a broad range of analysis and public input and represents a balanced, multiple use management strategy that protects resources and allows for commodity uses.

Issue Number 5: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“At a minimum, for the BLM to conduct an appropriate cumulative effects analysis it must consider and evaluate the projects presented in Tables 4-5 and 4-6 alongside the projected activities that are presented in Appendix 33 and make a determination of what cumulative impacts are possible, tying that determination to data regarding impacts of the projects, or a rational explanation of why such data is not available or cannot be obtained. 40 CFR §§ 1502.22, 1502.24. It should be noted that the BLM itself has determined that these projects at a minimum are relevant to a proper cumulative impacts analysis, thus they must be considered in a proper cumulative impacts analysis...What data these conclusions are based on is not explained. They are nothing more than unsupported narratives. Again, this fails to meet the requirements of the NEPA.”

Issue Number 6: PP-WY-Rawlins-08-95c

Individual: Andrew Blair

Issue Excerpt Text:

“I encourage a full re-evaluation of this FEIS [Final Environmental Impact Statement] to better acknowledge the cumulative impacts of oil and gas development across such an environmentally sensitive landscape as the Rawlins Field Office. While the Bush Administration has signed an executive order promoting energy development on public lands that in itself does not void the BLM's responsibility under FLPMA [Federal Land Policy and Management Act of 1976].”

Response:

The adequacy of the direct and cumulative effects and impact analysis for the PRMP/FEIS is addressed above.

Tables 4-5 and 4-6 in the PRMP/FEIS contain some projects well outside of the cumulative impact analysis area for most resources (e.g. many of such projects were added primarily to address the cumulative impact analysis area for air quality). Each resource and resource use considered the applicable projects contained in Tables 4-5 and 4-6 in the analysis of cumulative impacts to the respective resource or resource use. The incremental impacts to the environment as described in the PRMP/FEIS (pp. 4-486 through 4-531) are in compliance with NEPA regulation.

The level of cumulative impact analysis provided in the PRMP/FEIS is adequate to support the land use planning level decisions analyzed within this PRMP/FEIS. Subsequent NEPA documents will provide analysis of the cumulative impacts of specific projects or programs. As found in the PRMP/FEIS, “because of the wide geographic scope of a cumulative impact assessment and the variety of activities assessed, cumulative impacts are commonly examined at a more qualitative and less detailed level than are direct and indirect impacts presented previously in this chapter” (p. 4-486).

Issue Number 7: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“BLM's response to this criticism is as follows: “[Rawlins Field Office] RFO is currently meeting with cooperators involved in the RMP process to formulate quantifiable objectives. For example, RFO will not allow habitats in crucial winter ranges to be degraded below a target threshold (which is currently under discussion with WY Game and Fish and other interested parties).” Id. However, it is impermissible for the BLM to withhold component parts of the RMP from review in the FEIS...The BLM's statement is

indicative of the fact that parts of the proposed RMP are not being circulated for public review and comment, in violation of the NEPA.”

Response:

The BLM did not withhold any component parts of the Rawlins land use planning effort from public review. During preparation of the PRMP/FEIS, the BLM continued to work with cooperators to refine goals, objectives and management actions. The reference to working with the Wyoming Game and Fish Department (WGFD) in the comment response mentioned in the protester’s letter is a reference to that exercise. The BLM worked with all our cooperators, including the WGFD, to develop goals, objectives and management actions for the PRMP/FEIS. The result of that refinement exercise is what was presented in Chapter 2 of the PRMP/FEIS. The BLM has complied with all requirements to provide for public participation and review during this planning process.

Issue Number 8: PP-WY-Rawlins-08-14

Organization: Western Watersheds Project

Issue Excerpt Text:

“The cumulative impacts analyses fail to take into account the additive effects of livestock grazing in addition to oil and gas drilling. This violates NEPA. . . . A cumulative effects analysis ‘must be more than perfunctory.’ Klamath-Siskiyou, 387 F.3d at 994. ‘General statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.’ Id. Unfortunately, the RMP NEPA process failed to meet the requirements for a cumulative effects analysis, as is all too common.”

Response:

40 CFR § 1508.7 defines ‘cumulative effects’ as: “The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” The incremental impacts to the environment are adequately described in Chapter 4 of the Rawlins PRMP/FEIS (pp. 4-486 through 4-531).

The protest letter refers to the specific analysis of potential cumulative impacts of livestock grazing and oil and gas drilling. In section 4.20.3, a qualitative analysis is presented for each resource. Where the potential for cumulative impact exists, it is addressed accordingly (pp. 4-493 through 4-531). For example, the impact of livestock grazing on vegetation management is assessed and contrasted with the impacts from oil and gas development on page 4-523. In addition, livestock grazing and oil and gas drilling impacts to other resources are addressed in other appropriate resource sections throughout Chapter 4.20.3 – Impacts by Resource.

Issue Number 9: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“By opening areas to leasing, but deferring analysis of impacts to the project stage, the BLM is not able to take a hard look at impacts, and is not analyzing the direct and cumulative impacts of its decisions on special status species.”

Response:

As noted above, cumulative impacts to resources are adequately described in Chapter 4 of the PRMP/FEIS. Management actions in the PRMP/FEIS provide that occupied habitat of known Special Status Species populations will be closed to locatable mineral entry and operation. Occupied habitat for threatened and endangered, species proposed for listing or candidate species will be open to oil and gas leasing with a no surface occupancy restrictions (refer to pp. 2-94 through 2-96). Potential impacts to Special Status Species from the minerals management program are identified in the PRMP/FEIS (refer to pp. 4-374, 4-379, 4-382, 4-385 and 4-388). Potential impacts to Special Status Species from vegetation management are identified in the PRMP/FEIS (refer to pp. 4-376, 4-380, 4-383, 4-386 and 4-389). As the PRMP/FEIS discusses and analyzes, no long-term adverse impacts to Special Status Plant Species are anticipated as a result of the minerals management program.

40 CFR § 1502.16 requires a discussion of “the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented.” An adequate discussion of direct and indirect effects on Special Status Plant Species is found within the general vegetation impacts analysis (refer to pp. 4-371 through 4-390).

The hard look at the effectiveness of mitigation measures, best management practices (BMPs), and management actions is included in the impact analysis in the PRMP/FEIS. Appendix 17, Monitoring and Evaluation, identifies the process that will be followed and the types of monitoring data that will be collected and evaluated to gauge the effectiveness of management actions, mitigation, and BMPs. Implementation actions developed following the planning decisions in the Rawlins RMP will require, and be supported by, additional NEPA analysis conducted for all proposed surface disturbing and disruptive activities.

Issue Number 10: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

[Regarding BLM's response to comments submitted on the Draft RMP/EIS] “These questions remain unanswered by the BLM: “Why is the Stratton Sagebrush Steppe Research ACEC withdraw for oil and gas leasing, but areas more significant to wildlife, such as the Sand Hills, Powder Rim, Red Rim and Atlantic Rim are not? Is this simply because there is low potential for oil and gas on the Stratton area? Are we to assume oil and gas withdrawals will only be pursued where there is little or no potential for oil and gas development?”

Response:

The BLM appreciates the comments provided by Biodiversity Conservation Alliance and other organizations, groups and individuals who commented on the Draft Resource Management Plan/Draft Environmental Impact Statement (DRMP/DEIS). The BLM met the regulatory requirement in its response to comments found in Appendix 38. In responding to comments on a draft environmental impact statement, the Council on Environmental Quality (CEQ) requires an agency to “assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final [environmental impact] statement.” 40 CFR § 1503.4(a). Among the possible responses which the BLM can take, as provided in 40 CFR § 1503.4(a), are the following:

- Modifying the alternative, including the proposed plan;
- Developing and considering alternatives not previously given serious Consideration;
- Making factual corrections; and
- Explaining why comments do not warrant further response citing the sources, authorities, or reasons that support the agencies position.

The BLM acted in full compliance with the applicable regulations by capturing, assessing, and considering each comment received on the DRMP/DEIS. All comments received responses (except those identified by the BLM in the Record of Decision (ROD), where comments inadvertently not responded to in *Table 1 – Unique Comments* database on the Rawlins RMP website are addressed). Unique comments and generic comments were responded to in the PRMP/FEIS (refer to Appendix 38). Each comment was captured, assessed, considered and responded to in accordance with the regulations in 40 CFR § 1503.4 (a).

The response to the WGFD comments concerning the Stratton Sagebrush Steppe Research Area is adequate as written in Appendix 38 (refer to p. A38-99). The research projects occurring in the Stratton Sagebrush Steppe Research area were a central consideration in deciding to close the area to oil and gas leasing. Oil and gas potential, acreage in existing oil and gas leases, and management actions necessary to meet the goals and objectives of proposed special designation management areas were all considered in the BLM’s decision to close any of the areas to leasing.

Issue Number 11: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM listed comments, but provided no responses. This was the case for: The failure to provide baseline information on water quality (DEIS Comments and Responses at Row 2414, 2415) [and] failure to provide baseline water quality measures for groundwater (DEIS Comments and Responses at Row 2416).”

Response:

Compliance with CEQ regulations for responding to comments is addressed above. In Table 1 - Unique Comments, which is posted on the Rawlins RMP website (<http://www.blm.gov/rmp/wy/rawlins/documents.html>), the BLM has determined that five comments were not responded to. The BLM regrets the omission. However, the issues raised in these five comments were addressed in other comments in both the Unique Comments table on

the website and in Appendix 38 of the PRMP/FEIS. These five comments and appropriate responses are included in the BLM's Record of Decision for the Rawlins RMP. The adequacy of available baseline information for groundwater quality is addressed in the *Water Resources* section of this report.

Issue Number 12: PP-WY-Rawlins-08-51

Individual: Tova Woyciechowicz

Issue Excerpt Text:

"I passionately value public involvement..., and find this RMP planning process a violation of that process because it required substantive comments (and disregard the vast majority). The definition of substantive comments effectively alienates anyone without higher education or full time work related to these areas."

Response:

The BLM recognizes the importance of involving the public and local governments during the preparation of land use plans, which guide the implementation of its multiple use mission. The Rawlins Field Office involved communities and local governments extensively as cooperating agencies where appropriate in preparation of the PRMP/FEIS. Their input and expertise was used throughout the process. The BLM complied with the Council on Environmental Quality regulations for implementing the NEPA at 40 CFR § 1503.4, as well as the BLM's planning guidance (BLM Land Use Planning Handbook, H-1601-1 III.A.9). The BLM met the requirements for public participation under the FLPMA § 202(f) and the NEPA as well.

Issue Number 13: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

"[The] BLM has failed to take a 'hard look' at many significant environmental issues in the Rawlins RMP. It has not adequately considered mitigation measures to address the numerous significant environmental impacts that are anticipated."

Response:

The BLM has analyzed the potential environmental consequences of the Proposed Plan and other alternatives. Numerous references to intensive management and the use of BMPs are made throughout the Proposed Plan and other alternatives. BMPs are innovative, dynamic, and economically feasible mitigation measures applied on a site-specific basis to reduce, prevent, or avoid adverse environmental or social impacts. The BMPs will be adapted to meet the site-specific requirements of a particular project as well as the local environment. The BMPs are incorporated into site-specific project proposals and supported by site-specific environmental analysis. The Rawlins PRMP/FEIS does not mandate BMPs for particular actions at the land use plan level and instead provides a range of BMPs that will be applied, where appropriate, at the implementation or site-specific level of analysis. The Methods of Analysis sections under each resource heading in Chapter 4 of the PRMP/FEIS contain assumptions that appropriate BMPs will be used to reduce the impacts of the various management actions under each alternative.

The BMPs and their applications are discussed in Appendix 15, among others, in the PRMP/FEIS.

Issue Number 14: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Most commenters advocated adoption of the Western Heritage Alternative... The preferences of these members of the public also are not represented in the range of alternatives in the EIS.”

Issue Number 15: PP-WY-Rawlins-08-92

Individuals: Jim and Carol States

Issue Excerpt Text:

“Our essential point is this - even with all the resources available to them, the BLM did not even honor our WHA [Western Heritage Alternative] effort with a careful analysis.”

Issue Number 16: PP-WY-Rawlins-08-55

Individual: Patricia Dowd

Issue Excerpt Text:

“The proposed plan is deficient because it did not consider the Western Heritage Alternative...Because of the failure to consider this alternative, none of the alternatives considered in the EIS [Environmental Impact Statement] present a fair balance between development and conservation....The BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage Alternative as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife habitat. By failing to consider an adequate range of alternatives, and failing to fully consider and explore options for mitigating impacts, the Final EIS violates federal law.”

Issue Number 17: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“The Proposed RMP and FEIS arbitrarily exclude from consideration reasonable alternatives. . . . FEIS and proposed RMP fail to adequately consider alternatives to the proposed action. By dismissing the Western Heritage out of hand based on the contention that it will place 90% of federal minerals under restrictions on surface disturbing activities, FEIS at 2-9, without conducting any analysis of whether mineral resources would be available through directional drilling from non-federal lands, existing well pads or other already-disturbed sites, the BLM’s dismissal of this alternative is arbitrary and capricious.”

Issue Number 18: PP-WY-Rawlins-08-05

Individuals: Val and Ken Hanson

Issue Excerpt Text:

“BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage alternative as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife species.”

Issue Number 19: PP-WY-Rawlins-08-55

Individual: Patricia Dowd

Issue Excerpt Text:

“The proposed plan is deficient because it did not consider the Western Heritage Alternative... Because of the failure to consider this alternative, none of the alternatives considered in the EIS [Environmental Impact Statement] present a fair balance between development and conservation... The BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage Alternative as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife habitat. By failing to consider an adequate range of alternatives, and failing to fully consider and explore options for mitigating impacts, the Final EIS violates federal law.”

Issue Number 20: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“It [Rawlins PRMP/FEIS] has not considered a full range of reasonable alternatives, most notably by failing to fully consider the Western Heritage Alternative.”

Issue Number 21: PP-WY-Rawlins-08-16

Individual: Mary Lou Morrison

Issue Excerpt Text:

“This plan completely ignores the Western Heritage Alternative [WHA] strongly supported in the first go-round, which was a balance of industrial and conservation development. FLPMA [The Federal Land Policy and Management Act] states that public lands are supposed to be managed to protect the quality of scientific, scenic, historical, ecological, environmental, air and atmosphere, water resource and archeological values that where appropriate, will provide food and habitat for wildlife, outdoor recreation.”

Issue Number 22: PP-WY-Rawlins-08-20

Individual: Cindy Bonds

Issue Excerpt Text:

“Although the law requires the BLM to consider a range of reasonable alternatives, the BLM has failed to consider the Western Heritage Alternative, which received more public support than any BLM alternative. None of the alternatives being considered by the BLM in the EIS present a fair balance between development and conservation. By failing to consider an adequate range of alternatives, the Final EIS is in violation of federal law.”

Issue Number 23: PP-WY-Rawlins-08-22

Individual: Judy Peternell

Issue Excerpt Text:

“Although the law requires the BLM to consider a range of reasonable alternatives, the BLM has failed to consider the Western Heritage Alternative, which received more public support than any BLM alternative. None of the alternatives being considered by the BLM in the EIS present a fair balance between development and conservation. By failing to consider an adequate range of alternatives, the Final EIS is in violation of federal law.”

Issue Number 24: PP-WY-Rawlins-08-39

Individual: Joyce M. Miller

Issue Excerpt Text:

“The Western Heritage Alternative, which I support and which received greater public support than any BLM alternative in the Draft EIS [Environmental Impact Statement] process, was apparently not even considered as an alternative by BLM. None of the alternatives considered in the EIS represent a fair balance between development and conservation.”

Issue Number 25: PP-WY-Rawlins-08-46

Individual: F. Earline Hittel

Issue Excerpt Text:

“The BLM failed to consider the Western Alternative which balanced drilling against conservation of wildlife habitats and recreation.”

Issue Number 26: PP-WY-Rawlins-08-07

Individual: Mary Ann Stout

Issue Excerpt Text:

“BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage Alternative as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife species.”

Issue Number 27: PP-WY-Rawlins-08-18

Individuals: Peter and Eva Crane

Issue Excerpt Text:

“BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage Alternative as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife species.”

Issue Number 28: PP-WY-Rawlins-08-21

Individual: Paul Taylor

Issue Excerpt Text:

“BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage Alternative as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife species.”

Issue Number 29: PP-WY-Rawlins-08-30

Individual: Martie Crone

Issue Excerpt Text:

“BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage Alternative as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife species.”

Issue Number 30: PP-WY-Rawlins-08-61

Individual: Ted Manahan

Issue Excerpt Text:

“BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage Alternative as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife species.”

Issue Number 31: PP-WY-Rawlins-08-02

Individuals: Cynthia Patterson and Peter J. Schrand

Issue Excerpt Text:

“We support the Western Heritage Alternative, which was not considered even though it was strongly supported by the public. By law, the BLM must consider a range of reasonable alternatives, including: the Western Heritage Alternative; alternatives of phased leasing and development; setting limits on the density of roads and wells in oil and gas fields; and requiring directional drilling to avoid disturbing sensitive wildlife habitats.”

Issue Number 32: PP-WY-Rawlins-08-42

Individual: Joyce Jansa Corcoran

Issue Excerpt Text:

“I find the action of the BLM in releasing the Final EIS [Environmental Impact Statement] without considering the Western Heritage Alternative totally contemptuous of all the public comment of so many Wyomingites who care deeply for the Red Desert and Atlantic Rim areas.”

Issue Number 33: PP-WY-Rawlins-08-64

Individual: Albert Bitner

Issue Excerpt Text:

“The law requires the BLM to consider a range of reasonable alternatives, the BLM failed to consider the Western Heritage Alternative.”

Issue Number 34: PP-WY-Rawlins-08-71

Individual: Mary G. Forrester

Issue Excerpt Text:

“I support the Western Heritage Alternative...yet this alternative was not even considered.”

Issue Number 35: PP-WY-Rawlins-08-72

Individual: Mary Beth Baptiste

Issue Excerpt Text:

“Although federal law requires the BLM to consider alternatives, the Western Heritage Alternative was not even considered.”

Issue Number 36: PP-WY-Rawlins-08-75

Individual: Hannah Griscom

Issue Excerpt Text:

“There was abundant support for the Western Heritage Alternative [WHA]...the Great Divide Plan seems to ignore all of the balanced considerations.”

Issue Number 37: PP-WY-Rawlins-08-76

Individual: Bob Strayer

Issue Excerpt Text:

“I strongly encourage your consideration of the Western Heritage Alternative (WHA) which, as you know, received vastly more public support than any BLM alternative in the Draft EIS process...By failing to consider a reasonable range of alternatives with the balance I mentioned, the ‘final EIS’ violates federal law.”

Issue Number 38: PP-WY-Rawlins-08-79

Individuals: Aurora, Carlos, Cormac and Martha Martinez del Rio

Issue Excerpt Text:

“Your agency has failed to seriously consider other alternatives. For example the Western Heritage Alternative...The BLM has the obligation to consider a range of reasonable alternatives, including phased

leasing and development, limiting road density, and requiring directional drilling to avoid disturbance of sensitive wildlife habitats. In summary, the Final EIS violates our laws.”

Issue Number 39: PP-WY-Rawlins-08-81

Individual: Dennis Thomas

Issue Excerpt Text:

“The Final EIS for the Great Divide plan revision for southeastern Wyoming fails to consider the Western Heritage Alternative.”

Issue Number 40: PP-WY-Rawlins-08-83

Individual: Bertha Ward

Issue Excerpt Text:

“You failed to consider the Western Heritage Alternative. All BLM alternatives emphasize heavy drilling.”

Issue Number 41: PP-WY-Rawlins-08-10

Individual: Barbara E. Rugotzke

Issue Excerpt Text:

“The BLM, although legally required to do so, did not consider the Western Heritage Alternative which balanced industrialization with wildlife concerns and recreation.”

Issue Number 42: PP-WY-Rawlins-08-38

Individual: Sigrid Mayer

Issue Excerpt Text:

“BLM is required by law to propose a range of reasonable alternatives; they failed to include the Western Heritage Alternative.”

Issue Number 43: PP-WY-Rawlins-08-51

Individual: Tova Woyciechowicz

Issue Excerpt Text:

“BLM has a legal obligation to consider a range of reasonable alternatives, including the Western Heritage Alternative [WHA] as well as alternatives of phased leasing and development, setting limits on the density of roads and wells in oil and gas fields, and requiring directional drilling to avoid disturbance of sensitive wildlife habitats.”

Issue Number 44: PP-WY-Rawlins-08-74

Individuals: Dan and Janet W. Blair

Issue Excerpt Text:

“The BLM failed to consider the Western Heritage Alternative.”

Response:

The BLM recognizes the importance of involving the public and local governments during the preparation of land use plans, which guide the implementation of its multiple-use mandate. The Rawlins Approved Plan follows the multiple-use mandate set out by the FLPMA in 43 U.S.C. § 1712. The Rawlins Field Office involved communities and local governments extensively as cooperating agencies where appropriate in preparation of the PRMP/FEIS. Their input and expertise was used throughout the process. The BLM met the requirements for public participation under the FLPMA § 202(f) and the NEPA.

During the course of this planning process, varying perspectives were expressed by many interested publics, stakeholders, and interest groups. All concerns were addressed and incorporated to the extent practicable within the range of alternatives considered and analyzed, as required by the NEPA. Comments received on the DEIS were responded to (refer to Appendix 38 Response to Comments for a complete listing). Although the BLM acknowledges a large amount of support for particular management proposals put forth in the Western Heritage Alternative (WHA), it is also important to note that other portions of the local community and other stakeholder groups expressed a desire to see as much production from oil and gas development on BLM lands in the planning area as practicable.

As noted above, the BLM considered a reasonable range of alternatives in the PRMP/FEIS in full compliance with the National Environmental Policy Act (NEPA). Four alternatives were analyzed in detail; alternatives and management options considered but eliminated from detailed analyses are described in section 2.3.3 (refer to pp. 2-7 through 2-11 of the PRMP/FEIS). The BLM's Approved Plan is the result of a broad range of analysis and public input and represents a balanced, multiple use management strategy that protects resources and allows for commodity uses.

While the WHA was not an alternative analyzed in detail, many of the basic considerations of the WHA are incorporated in various combinations of the four alternatives analyzed in the PRMP/FEIS. For instance, alternatives that were considered included many of the WHA's proposed Areas of Critical Environmental Concern (ACECs); additional closures to mineral entry and oil and gas leasing; a greater acreage of lands under no-surface-occupancy restrictions; the proposed Encampment River Canyon Wild and Scenic River segment; and the proposed Wild Cow and Chain Lakes wildlife habitat management areas. For the reasons specified in section 2.3.3 on pages 2-8 through 2-10, however, the BLM determined that the WHA did not meet the Purpose and Need of the Rawlins PRMP/FEIS. As explained in the PRMP/FEIS, the WHA proposed that over 90 percent of the public land would be developed under a no surface occupancy restriction. This restriction was determined by the BLM to be unreasonable given FLPMA's multiple-use mandate.

Issue Number 45: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM was presented with this [WHA and NSO calculations] analysis in the DEIS, but failed to respond to the comment, in violation of the NEPA's response to comments requirements. DEIS Comments and Responses at Row 808.”

Response:

Compliance with CEQ regulations for responding to comments is addressed above. The BLM did include the Biodiversity Conservation Alliance comment concerning the No Leasing Alternative in the PRMP/FEIS (refer to p. A38-418). The BLM also responded to the portion of the comment concerning the WHA.

In further response to the comment related to the inclusion of a No Leasing Alternative within the range of alternatives, the BLM determined such an alternative was not reasonable. The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181, et.seq.), provides the authority to lease all public lands, which are not precluded from being leased by some legal authority, such as the Wilderness Act. Appendix 20 of the PRMP/FEIS summarizes the basics concerning the leasing process (Appendix 20, page 4). Further discussion of the leasing process is provided in the BLM's response to comments (Appendix 38, p. A38-75). Also, the PRMP/FEIS's response to comments references the Mining and Mineral Policy Act of 1970, which declares that it is the policy of the Federal Government to encourage the development of domestic mineral resources such as oil and gas (refer to Appendix 38, p. A38-105). Thus, a No Leasing Alternative was determined not to be a reasonable alternative.

Issue Number 46: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Certainly, the BLM has not made the case that this is not a reasonable alternative worthy of detailed consideration in the EIS... The BLM needs to provide a transparent explanation, categorically (and with maps) showing how it arrived at the figure of 91% [No Surface Occupancy] NSO for the Western Heritage Alternative. Because this is the sole basis provided for failing to consider this alternative in detail, errors in calculations are critically important, and all discrepancies between [Biodiversity Conservation Alliance] BCA's analysis of NSO acreage and the BLM's analysis of the same totals need to be expanded.”

Response:

The adequacy of the reasonable range of alternatives for the PRMP/FEIS is addressed above. The rationale for not analyzing the alternative further is adequately provided on pages 2-8 through 2-10 of the PRMP/FEIS. Therein, the BLM sufficiently provides a description of the apparent disparities between the BLM's figures and those of the Biological Conservation Alliance.

Federal Land Policy and Management Act (FLPMA)

Issue Number 47: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Overall, the proposed RMP does not reflect the multiple-use mandate of the FLPMA, prioritizing oil and gas development over all other land uses to the detriment of sensitive landscapes and wildlife.”

Issue Number 48: PP-WY-Rawlins-08-55

Individual: Patricia Dowd

Issue Excerpt Text:

“[The Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS)] fails to adequately balance oil and gas development and other industrial uses with the needs of wildlife conservation and public recreation...The BLM's proposed plan dedicates the overwhelming majority of the

public lands - 98% - to potential oil and gas development uses, an imbalance that is incompatible with wildlife protection and recreation, and does not provide for multiple use as required by law.”

Issue Number 49: PP-WY-Rawlins-08-92

Individuals: Jim and Carol States

Issue Excerpt Text:

“The alternative chosen by the BLM is not the ‘balanced’ alternative they claim it to be and it therefore does not serve the best interest of the general public it is their responsibility to serve.”

Issue Number 50: PP-WY-Rawlins-08-05

Individuals: Val and Ken Hanson

Issue Excerpt Text:

“[The PRMP/FEIS] fails to adequately balance oil and gas drilling and other industrial uses with the completing needs of wildlife conservation and public recreation...does not provide for multiple use.”

Issue Number 51: PP-WY-Rawlins-08-20

Individual: Cindy Bonds

Issue Excerpt Text:

“The revision includes a six-fold increase in new wells drilled over the current plan and will open 98% of public lands and minerals in the area to some form of oil and gas leasing, which are incompatible with wildlife and recreation. There are major problems with the proposed plan, as it does not provide for multiple use as required by law.”

Issue Number 52: PP-WY-Rawlins-08-22

Individual: Judy Peternell

Issue Excerpt Text:

“I protest the Final EIS for the Rawlins Resource Management Plan because it fails to balance oil and gas drilling and other industrial uses with the needs of wildlife conservation and public recreation. The BLM's proposed plan of 98% to industrial uses that are incompatible with wildlife and recreation and does not provide for multiple use as required by law.”

Issue Number 53: PP-WY-Rawlins-08-39

Individual: Joyce M. Miller

Issue Excerpt Text:

“The plan does not provide for realistic multiple use of these public lands for wildlife habitation, conservation or recreation as required by law. In fact under this plan, 98% of the land would be dedicated to industrial uses which would change and forever damage the land for wildlife habitation and for human recreation.”

Issue Number 54: PP-WY-Rawlins-08-07

Individual: Mary Ann Stout

Issue Excerpt Text:

“[The PRMP/FEIS] fails to adequately balance oil and gas drilling and other industrial uses with the completing needs of wildlife conservation and public recreation...does not provide for multiple use.”

Issue Number 55: PP-WY-Rawlins-08-18

Individuals: Peter and Eva Crane

Issue Excerpt Text:

“[The PRMP/FEIS] fails to adequately balance oil and gas drilling and other industrial uses with the completing needs of wildlife conservation and public recreation...does not provide for multiple use.”

Issue Number 56: PP-WY-Rawlins-08-21

Individual: Paul Taylor

Issue Excerpt Text:

“[The PRMP/FEIS] fails to adequately balance oil and gas drilling and other industrial uses with the completing needs of wildlife conservation and public recreation...does not provide for multiple use.”

Issue Number 57: PP-WY-Rawlins-08-30

Individual: Martie Crone

Issue Excerpt Text:

“[The PRMP/FEIS] fails to adequately balance oil and gas drilling and other industrial uses with the completing needs of wildlife conservation and public recreation...does not provide for multiple use.”

Issue Number 58: PP-WY-Rawlins-08-61

Individual: Ted Manahan

Issue Excerpt Text:

“[The PRMP/FEIS] fails to adequately balance oil and gas drilling and other industrial uses with the completing needs of wildlife conservation and public recreation...does not provide for multiple use.”

Issue Number 59: PP-WY-Rawlins-08-42

Individual: Joyce Jansa Corcoran

Issue Excerpt Text:

“[The plan] fails to adequately balance oil and gas drilling and other industrial uses with the competing needs of wildlife conservation and public recreation.”

Issue Number 60: PP-WY-Rawlins-08-49

Individual: Bill Spillman

Issue Excerpt Text:

“The BLM has plainly ignored their mandate for multiple use in an overriding appeasement to petroleum interests that are continuing to ruin opportunity for all other options such as recreation, heritage preservation, and tourism.”

Issue Number 61: PP-WY-Rawlins-08-72

Individual: Mary Beth Baptiste

Issue Excerpt Text:

“This proposed plan opens virtually all (98%) public lands to industrial uses and does not provide for multiple use as required by law.”

Issue Number 62: PP-WY-Rawlins-08-75

Individual: Hannah Griscom

Issue Excerpt Text:

“This [the Rawlins PRMP/FEIS] blatant disregard for BLM's multiple use mandate. Very few areas are set aside for quiet recreation.”

Issue Number 63: PP-WY-Rawlins-08-76

Individual: Bob Strayer

Issue Excerpt Text:

“This EIS represents a total failure on the part of your agency to adequately balance oil and gas drilling and other industrial uses with the conservation needs of wildlife and public recreation. This is obvious to me from the percentage (98) of the Rawlins RMP dedicated to industrial uses. This is outrageous, and practically a total disregard for ‘multiple use.’”

Issue Number 64: PP-WY-Rawlins-08-79

Individuals: Aurora, Carlos, Cormac and Martha Martinez del Rio

Issue Excerpt Text:

“It [the PRMP/FEIS] fails to balance oil and gas drilling and other industrial uses with conservation of natural resources and public recreation. It violates the spirit of your ‘commitment to balance, cooperation, collaboration and sharing’...It dedicates the vast majority of the public lands (more than 95%) to industrial uses. These used are incompatible with wildlife and recreation. I believe that your plan does not provide for multiple use and this failure implies that it violates the law of the land.”

Issue Number 65: PP-WY-Rawlins-08-95c

Individual: Andrew Blair

Issue Excerpt Text:

“I encourage a full re-evaluation of this FEIS [Final Environmental Impact Statement] to better acknowledge the cumulative impacts of oil and gas development across such an environmentally sensitive landscape as the Rawlins Field Office. While the Bush Administration has signed an executive order promoting energy development on public lands that in itself does not void the BLM's responsibility under FLPMA [Federal Land Policy and Management Act of 1976].”

Issue Number 66: PP-WY-Rawlins-08-95m

Individual: Jeanne Leske

Issue Excerpt Text:

“it [the PRMP/FEIS] focuses too heavily on oil and gas drilling and other industrial uses, and does not adequately consider our wildlife and public recreation.... None of the alternatives considered in the FEIS present a fair balance between development and conservation: oil and gas leasing and other industrial uses are far too widespread, and protection measures lacking, in each alternative.... [I]t should be managed for multiple use, as required by law.”

Issue Number 67: PP-WY-Rawlins-08-95p

Individual: Chuck Neal

Issue Excerpt Text:

“it [the PRMP/FEIS] focuses too heavily on oil and gas drilling and other industrial uses, and does not adequately consider our wildlife and public recreation.... None of the alternatives considered in the FEIS present a fair balance between development and conservation: oil and gas leasing and other industrial uses are far too widespread, and protection measures lacking, in each alternative.... [I]t should be managed for multiple use, as required by law.”

Issue Number 68: PP-WY-Rawlins-08-95s

Individual: Jack Runnels

Issue Excerpt Text:

“it [the PRMP/FEIS] focuses too heavily on oil and gas drilling and other industrial uses, and does not adequately consider our wildlife and public recreation.... None of the alternatives considered in the FEIS present a fair balance between development and conservation: oil and gas leasing and other industrial uses are far too widespread, and protection measures lacking, in each alternative...[I]t should be managed for multiple use, as required by law.”

Issue Number 69: PP-WY-Rawlins-08-95w

Individual: Zentura

Issue Excerpt Text:

“it [the PRMP/FEIS] focuses too heavily on oil and gas drilling and other industrial uses, and does not adequately consider our wildlife and public recreation.... None of the alternatives considered in the FEIS present a fair balance between development and conservation: oil and gas leasing and other industrial uses are far too widespread, and protection measures lacking, in each alternative...it should be managed for multiple use, as required by law.”

Issue Number 70: PP-WY-Rawlins-08-10

Individual: Barbara E. Rugotzke

Issue Excerpt Text:

“By opening 98% of these public lands and minerals to some form of oil and gas leasing, this plan violates the principle of multiple use, which by law was to guide land use decisions.”

Issue Number 71: PP-WY-Rawlins-08-74

Individuals: Dan and Janet W. Blair

Issue Excerpt Text:

“[The agency] has failed to adequately balance industrial uses including oil and gas drilling with the competing needs of wildlife conservation and public recreation...The main emphasis of every BLM alternative was heavy drilling...”

Issue Number 72: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“BLM’s obligation to manage the public lands for multiple use demands that resources in the Rawlins Field Office be fully protected. The FLPMA Requires RMPs to Protect Relatively Scarce Values and Ensure Long-term Benefits are Maintained.”

Response:

The FLPMA gives the BLM discretion to make decisions that satisfy a range of needs. Section 102(a)(12) of the FLPMA directs the BLM to manage the public lands “in a manner which recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber.” The term “multiple use” is defined in the FLPMA (Section 103(c)) as “the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people.” Accordingly, the BLM is tasked with the complicated task of striking a balance among the many competing uses to which land can be put. The BLM’s multiple use mandate does not require that all uses be allowed on all areas of the public lands. That would preclude any kind of balance. The purpose of the mandate is to require the BLM to evaluate and choose an appropriate balance of resource uses, which involves tradeoffs between competing uses. The alternatives in the DRMP/DEIS and PRMP/FEIS reflect this provision.

The BLM’s planning process has allowed consideration of all options to ensure that a balanced approach was recommended. The Approved Plan includes responsible mineral development carried out through the implementation and enforcement of stipulations, required operation procedures, conditions of approval, best management practices, and other site-specific mitigation measures, as well as through adherence to applicable laws and regulations. The BLM developed

a Approved Plan with involvement from the public and cooperators that provides a balanced multiple use management strategy to address the protection of resources while allowing for utilization of renewable and nonrenewable resources on the public lands in the Rawlins Field Office.

Issue Number 73: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“There are a number of specific conflicts between state and local plans and the proposed RMP.”

Response:

To the maximum extent practical, BLM land use plans and amendments shall be consistent with officially approved or adopted resource-related plans of Indian tribes, other Federal agencies, and State and local governments. However, BLM land use plans must also be consistent with the purposes, policies, and programs of the FLPMA and other Federal laws and regulations applicable to public lands of the (see 43 CFR § 1610.3-2(a)). To this end, the Rawlins PRMP/FEIS makes reference to and complements, to the maximum extent practical, many other Federal, State and local plans and policies.

The BLM has worked closely with State and local governments during preparation of the Rawlins PRMP/FEIS. The PRMP/FEIS lists the cooperating agencies actively involved in the planning process in section 5.1.1, pages 5-2 through 5-3. The BLM must provide consistency to the extent practicable. The BLM works to find a balance among uses and needs as reflected in these local government plans and has done so in the preparation of the Rawlins PRMP/FEIS.

The BLM resource management plans, including the Rawlins PRMP/FEIS, are designed to balance the public demands for various land uses while ensuring appropriate levels of resource protection. While there may be times when the BLM cannot meet the needs of all segments of public land users concurrently, the BLM strives to address their concerns. The Rawlins PRMP/FEIS, to the maximum extent practical, is consistent with State and local plans, thereby meeting the intent and purpose of FLPMA.

Issue Number 74: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Congress [via the FLPMA] has made clear that strong environmental protection must be provided through the planning process for these public assets. The EIS fails to follow this Congressional guidance, especially in the preferred alternative.”

Response:

The PRMP/FEIS provides adequate protective measures for all lands and resources within the planning area. The BLM has met all requirements of the FLPMA, including addressing environmental protection and the requirement to undertake actions necessary to prevent

unnecessary or undue degradation of the public lands. The protester provides no new or specific information that would lead the BLM to believe implementation of the Approved Plan will lead to unnecessary or undue degradation of these lands or resources in the planning area.

Issue Number 75: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The proposed plan does not contain adequate protective measures to ensure the maintenance of ecosystem health and multiple uses on the sensitive public lands of the Red Desert and other parts of the Rawlins Resource Management Plan Planning Area...Particularly lacking in the EIS is adequate protection for Adobe Town, the most outstanding recreation and scenic resource in the RMPPA...and the Powder Rim and Ferris Dunes, two of the most important and sensitive wildlife areas in the planning area.”

Response:

The adequacy of the protective measures is also addressed in issues immediately above and below (issues 74 and 76). Table 2-1 (Detailed Comparison of Alternatives) in the PRMP/FEIS includes desired future outcomes and objectives within the context of each resource or program’s goals and objectives, where appropriate. As implementation level activity plans are developed, more specific goals and quantifiable objectives will be included to address the specific RMP-level goals and objectives.

The BLM will continue to manage for biological integrity and habitat function of terrestrial and aquatic ecosystems to sustain and optimize distribution and abundance of all native, desirable non-native, and Special Status fish and wildlife species, including those present within the Powder Rim and Ferris Dunes habitats. Please refer to the PRMP/FEIS’s Management Goals and Management Objectives for Wildlife and Fisheries (p. 2-103) and Management Actions for General Wildlife, Actions Common to All Alternatives and Alternative 4 (pp. 2-203 through 2-112). Management actions that will be implemented to provide for adequate protection of species and associated habitat that inhabit these locations are found in Appendix 1 (Wyoming Bureau of Land Management Mitigation Guidelines for Surface Disturbing and Disruptive Activities); Appendix 15 (Best Management Practices for Reducing Surface Disturbance and Disruptive Activities); Appendix 26 (Road Management and Closures in Sensitive Habitat Areas); Appendix 31 (Rawlins Field Office Noxious Weed Prevention Plan); and Appendix 36 (Reclamation Plan). The Adobe Town and Adobe Town fringe areas receive protections; refer to the BLM’s responses to issues 320 and 328 below. In addition, refer to Appendix 37- Adobe Town Dispersed Recreation Use Area, which discusses protection measures for all of the recreational and scenic values for the Adobe Town Dispersed Recreation Use Area.

Issue Number 76: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM’s failure to strengthen wildlife protective measures in the face of scientific evidence that current measures are failing is simply appalling. This is particularly true for sage grouse breeding and nesting

areas, other BLM Sensitive Species habitats, and big game winter ranges. The BLM's failure to make a course correction on wildlife conservation measures in the context of oil and gas development is likely to be a prime driver for Endangered Species listing for the sage grouse, Wyoming pocket gopher, white-tailed prairie dog, and pygmy rabbit."

Response:

The PRMP/FEIS includes species specific management actions that will be implemented at the site-specific project stage, as appropriate. These management actions and mitigation measures as well as BMPs, will be implemented under the PRMP/FEIS until new science is reviewed and/or new BLM-wide guidance is issued for sage-grouse, or any other species. Any activity the BLM approves at the site-specific stage must be consistent with current direction at that time, unless conditions at the site warrant a greater mitigation distance or extent.

One of the Wildlife and Fisheries Management Objectives in the PRMP/FEIS states that, "the BLM will maintain, restore, or enhance designated BLM State Sensitive Species habitat in order to prevent listing under the [Endangered Species Act] ESA, in coordination and consultation with other local, state, and federal agencies and consistent with other agency plans, policies, and agreements" (refer to p. 2-103). In addition, one of the management actions for Species Listed on the BLM Wyoming State Director's Sensitive Species List states that, "surface disturbing and disruptive activities that would potentially affect the habitat of special status species would be intensively managed on a case-by-case basis" (refer to p. 2-109). Intensive management will allow the BLM to protect Special Status Species, including the greater sage-grouse, Wyoming pocket gopher, white-tailed prairie dog, and pygmy rabbit, among others. Mitigation measures and BMPs found in Appendix 1 (Wyoming Bureau of Land Management Mitigation Guidelines for Surface Disturbing and Disruptive Activities) and Appendix 15 (Best Management Practices for Reducing Surface Disturbance and Disruptive Activities) will be incorporated into project-specific or site-specific project proposals following adequate NEPA analysis. Intensive management of surface-disturbing and disruptive activities provides the BLM the flexibility to manage habitat for sensitive species and respond to or modify management as technology and management opportunities change and new BMPs become available for implementation. These measures are adequate to reduce potential environmental consequences and are innovative, dynamic, and economically feasible mitigation measures that are applied on a site-specific basis to reduce, prevent, or avoid adverse environmental impacts.

Issue Number 77: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

"A solid and repeatable monitoring program, well-defined and quantified benchmarks triggering management changes, and explicit remedial steps in the case that benchmarks are exceeded are the prerequisites to an effective adaptive management program. The BLM's Rawlins RMP does not meet the latter two criteria."

Response:

The PRMP/FEIS provides for monitoring of all resources to meet the identified goals and objectives of the PRMP/FEIS. The introductory text of Appendix 17 describes the process under

which monitoring will be used to ensure that predicted impacts to environmental resources have not been exceeded and that mitigation measures are sufficient. As described in Appendix 17, various types of monitoring data will be collected and evaluated during implementation of the Rawlins Approved Plan, as well as the numerous triggers requiring consideration for management adjustments. If issues of State or Federal authority become evident, the BLM will coordinate with other Federal, state, and local land and resource management agencies, such as the Natural Resources Conservation Service (NRCS), WGFD, and U.S. Fish and Wildlife Service (FWS). This coordination could involve the formation of Activity Plan Working Groups as described in section 2.7.2 Activity Plan Working Groups (refer to p. 2-16).

The Resource Monitoring Table provides an adequate framework for development of project-specific monitoring plans as identified in section 2.7.1. (refer to Appendix 17 and Table A17-1). The actual indicator, amount, and frequency of monitoring will depend on the consideration of resource sensitivity, number of activities potentially affecting a resource, available workforce, and funding level. The actual monitoring plans would be developed during implementation activities and activity plan development. Well-defined and quantified benchmarks triggering management changes and specific remedial steps in the event benchmarks are exceeded can be considered as elements of a project-specific or site-specific monitoring plan that will be developed during the activity planning and implementation stages of the Rawlins Approved Plan.

Issue Number 78: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The Proposed RMP purports to close public lands to mineral leasing in the land use plan instead of using Section 204 of the Federal Land Policy Management Act (FLPMA), 43 U.S.C. §1714, to withdraw the lands from sale under the Mineral Leasing Act. . . . BLM has the discretion to close the public lands to mineral leasing but it must follow the process set out in FLPMA to do so and the procedures in the RMP do not conform to those for a withdrawal.”

Issue Excerpt Text:

“The failure to follow withdrawal procedures means that BLM did not address the impacts on local economies, land use policies, or land rights within the counties or determine why consistency was not possible.”

Response:

There are no withdrawals of greater than 5,000 acres proposed under the Approved Plan. The action alternatives do propose removing areas from mineral leasing which is discretionary and does not require a withdrawal.

Withdrawals are defined by FLPMA § 103(j) as follows:

the term “withdrawal” means *withholding an area of Federal land from settlement, sale, location, or entry*, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction

over an area of Federal land . . . from one department, bureau or agency to another department, bureau or agency.

43 U.S.C. § 1702(j) (emphasis added).

The terms “settlement,” “sale,” “location,” or “entry” are all terms contemplating transfer of title to the lands in question, particularly the patenting or potential patenting, of lands out of Federal ownership into the hands of private parties based on the provisions of the General Mining Law of 1872, as amended, the various Homestead Acts, and other general land law. It is inapplicable to mineral leasing occurring under the Mineral Leasing Act of 1920. A Federal mineral lease sale is not a “sale” of public land under Section 203 of FLPMA and makes public lands unavailable to leasing is not a “withdrawal” as described in Section 204 of FLPMA. Therefore, the BLM was not required to complete the procedures associated with a withdrawal when it decided to close portions of the Rawlins planning area to leasing.

The Mineral Leasing Act is clear that leasing is discretionary. Therefore, no withdrawal is required to make public lands unavailable under this law.

Issue Number 79: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“[The] FLPMA requires BLM to ensure that the land use plan is consistent with local government plans, unless contrary to federal law. 43 U.S.C. §1712(c)(9). . . . The limit on water projects in the Upper Muddy Creek/Grizzly WHMA lack any legal or policy basis and directly contradict the LSRCD plans, programs, and policies. BLM has no legal justification not to ensure that the RMP conforms to its plans. It directly contradicts SWCCD Plan with respect to exercise of water rights, conservation objectives, and range management. . . . Similarly, the assignment of [Visual Resource Management] VRM Class II classifications must be subject to land uses. Here again the RMP did not address the land use policies that apply in the respective counties or the conservation districts.”

Response:

To the extent this issue pertains to Visual Resource Management, see the BLM’s responses in the *Visual Resource Management* portion of this report.

As noted above in the response to issue 73, BLM land use plans and amendments shall be consistent with officially approved or adopted resource-related plans of Indian tribes, other Federal agencies, and State and local governments to the maximum extent practical. However, BLM land use plans must also be consistent with the purposes, policies, and programs of the FLPMA and other Federal laws and regulations applicable to public lands of the (see 43 CFR § 1610.3-2(a)). To this end, the Rawlins PRMP/FEIS makes reference to and complements, to the maximum extent practical, many other Federal, State and local plans and policies.

The BLM has worked closely with State and local governments during preparation of the Rawlins PRMP/FEIS. The PRMP/FEIS lists the cooperating agencies actively involved in the planning process in section 5.1.1, which include Wyoming Game and Fish Commission (refer to pp. 5-2 and 5-3 of the PRMP/FEIS). Additionally, section 5.1.2 outlines consistency review with

State and local government plans accomplished through frequent communications and cooperative efforts (refer to pp. 5-3 and 5-4 of the PRMP/FEIS). Because it may not be possible for the BLM to be consistent with the plans and policies of all State and local agencies, the statutory guidance to the BLM is to provide consistency to the extent practicable. The BLM works to find a balance among uses and needs as reflected in these local and State government plans, and has done so in the preparation of the Rawlins PRMP/FEIS.

The BLM's land use plans, including the Rawlins RMP, are designed to balance the public demands for various land uses while ensuring appropriate levels of resource protection. While there may be times when the BLM cannot meet the needs of all segments of public land users concurrently, the BLM strives to address concerns as possible. The Rawlins PRMP/FEIS, to the maximum extent practical, is consistent with State and local plans, thereby meeting the intent and purpose of the FLPMA. The protest issue provides no new or specific information that would lead the BLM to believe implementation of the Approved Plan will lead to unnecessary or undue degradation of public lands in the planning area.

Issue Number 80: PP-WY-Rawlins-08-53

Individual: Ron Marquart

Issue Excerpt Text:

“None of the alternatives adequately protects Adobe Town on land surrounding this sensitive area. . . . Lands surrounding Encampment and Saratoga need special protections too to protect the landscape and its sensitive wildlife habitats.”

Issue Number 81: PP-WY-Rawlins-08-51

Individual: Tova Woyciechowicz

Issue Excerpt Text:

“None of the alternatives adequately protects Adobe Town on land surrounding this sensitive area...Lands surrounding Encampment and Saratoga need special protections too to protect the landscape and its sensitive wildlife habitats.”

Response:

The PRMP/FEIS proposes and considers specific management prescriptions to ensure the continued habitat protection for a diversity of species within the Adobe Town, Encampment, and Saratoga areas, while allowing other appropriate resource uses and activities to continue within the entire planning area. With the Approved Plan, the BLM is committed to providing the needed protections for these habitats as well as all other habitats within the planning area, while implementing the principles of multiple use put forth in the FLPMA; protecting valid existing rights; and complying with applicable laws, regulations, executive orders, and BLM Manuals (such as BLM Manual 6840).

The Adobe Town Wilderness Study Area (WSA) will be managed under the Interim Management Policy for Lands under Wilderness Review (IMP) for WSAs (refer to p. 2-54). As stated within the impact analysis for this area, “The IMP precludes surface disturbing and most other disruptive activities and sets management guidelines aimed at the preservation of wilderness characteristics. The management actions outlined in Table 2-1 for WSAs are

supplemental to the guidance found in the IMP” (refer to pp. 4-204 through 4-208). In addition, the lands surrounding the Adobe Town WSA will receive additional management direction through the Adobe Town Dispersed Recreation Use Area management goals (refer to Appendix 37 and Map 2-17).

Table 2-1 (Detailed Comparison of Alternatives) in the PRMP/FEIS includes desired future outcomes and objectives within the context of each resource or program’s goals and objectives, where appropriate. As implementation-level activity plans are developed, more specific goals and quantifiable objectives will be included to address and appropriately implement the RMP-level goals and objectives. The BLM will continue to manage for biological integrity and habitat function of terrestrial and aquatic ecosystems to sustain and optimize distribution and abundance of all native, desirable non-native, and Special Status fish and wildlife species (refer to the management goal presented on p. 2-103, General Wildlife, Management Goals Common to All Alternatives). Management actions that will be implemented to provide for adequate protection of species and associated habitat that inhabit these locations are found in Appendix 1 (Wyoming Bureau of Land Management Mitigation Guidelines for Surface Disturbing and Disruptive Activities); Appendix 15 (Best Management Practices for Reducing Surface Disturbance and Disruptive Activities); Appendix 26 (Road Management and Closures in Sensitive Habitat Areas); Appendix 31 (Rawlins Field Office Noxious Weed Prevention Plan); and Appendix 36 (Reclamation Plan).

Issue Number 82: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“[The] BLM must prevent unnecessary or undue degradation of the public lands. . . . The Rawlins RMP makes it clear that implementation of the plan will lead to a number of severe environmental impacts. The BLM likes to refer to these as ‘significant’ impacts, but by any measure they are prohibited ‘undue’ impacts under the terms the FLPMA. . . . By any measure this level of impacts is a prohibited ‘undue’ impact on the environment of the Rawlins Field Office.”

Response:

Congress recognized that through the BLM’s multiple-use mandate, there would be conflicting uses and impacts on the public land. The BLM does not consider approved activities that comply with applicable statutes, regulations and policy, which include appropriate mitigation measures and operating standards, to cause unnecessary or undue degradation. Moreover, unnecessary or undue degradation is a management standard that does not apply to BLM planning decisions for public lands.

Areas of Critical Environmental Concern (ACECs)

Issue Number 83: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The Manual [1613] also sets out more specific requirements for how consideration of ACECs should be conducted... each area recommended for consideration as an ACEC, including from external nominations, be considered by the BLM, through collection of data on relevance and importance, evaluation by an interdisciplinary team and then, if they [ACECs] are not to be designated, the analysis supporting the conclusion ‘must be incorporated into the plan and associated environmental document’ ... However, the treatment of proposed ACECs in the Draft RMP/EIS does not comply with the BLM’s obligations...The BLM has systematically ignored the disjunctive nature of this [meeting the importance criteria] statement, and disqualifies a number of strong candidates for ACEC status for failure to meet one of the criteria of ‘importance,’ when these areas clearly meet other importance criteria.”

Response:

The BLM has reviewed its administrative record and found that comments submitted through scoping (during a comment period for gathering input on potential ACECs) did include recommendations for designating ACECs to protect the following areas, habitats, or species: McCarty Canyon, Areas surrounding North Platte Reservoirs, Flattop Mountain (including any habitat for Gibbens penstemon), Ferris Dunes (including the large dune field, Gramminoid wetland communities, and any habitat for the Kangaroo rat), and Ferris Mountain (including any habitat for Cedar Rim thistle north of the area). These recommendations were mistakenly overlooked in documentation. Because the BLM did not adequately document the recommendations in accordance with BLM 1613 Manual (Areas of Critical Environmental Concern), the protest is granted and these recommended areas will be considered for ACEC designation at the earliest opportunity as part of the next planning process conducted in the Field Office.

Issue Number 84: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“The BLM failed to designate important management areas for plant species and communities of concern. The following sites [Bates Hole/Chalk Mountains, Powder Rim, and Shirley Mountains] were recommended as conservation sites suitable for ACEC designation (Marriott 2003, 2005; based in part on Freilich et al. 2001). Analyses by the BLM incorrectly concluded that they did not meet criteria for relevance and importance.”

Response:

See the response to issue 83 above regarding those proposed ACECs remanded for further consideration.

The protective measures for plant species and communities are addressed above. In compliance with 43 U.S.C. 1712(c)(2) and 1702(a), the BLM reviewed all nominated ACECs in accordance with BLM Manual 1613 (Areas of Critical Environmental Concern). Review of few of these areas was not adequately documented (see issue 83 above). Nominations were evaluated based on relevance and importance criteria at 43 CFR § 1610.7-2 and BLM Manual 1613-1.11 and 1613-1.12. Areas that met both importance and relevance criteria were considered as potential ACECs in the PRMP/FEIS. A summary of the ACEC process is located in Appendix 22.

The BLM considered plant species and communities when the following areas were analyzed for

ACEC Relevance and Importance: Chain Lakes Area; Blowout Penstemon Area of Ferris Dunes; Bates Hole/Chalk Mountain Cushion Plant Community; Powder Rim Juniper Woodland (Cherokee/Powder Rims); Flattop Mountain; and Shirley Mountain (Shirley Mountains/Shirley Basin West). Refer to the Rawlins RMP revision website for ACEC specific reports. Rare plant species are afforded protection regardless of ACEC or Wildlife Habitat Management Area (WHMA) status, as presented in Table 2-1 of the PRMP/FEIS (refer to pp. 2- 93 through 2-96).

Issue Number 85: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“It is arbitrary and capricious and an abuse of discretion pursuant to the APA for the BLM to deny consideration of the Powder Rim for ACEC status when it has already designated an area (Jep Canyon) that possesses identical criteria [crucial winter habitat for elk and habitat for nesting pairs of raptors] for ACEC status.”

Response:

The consideration of the Powder Rim ACEC is discussed above.

In review of the relevance and importance forms for the Jep Canyon ACEC, the BLM used the elk crucial winter range in that area as one of the criteria in 1990, but alone, the values associated with that winter range were not adequate to meet the importance criteria. This criterion was simply carried forward from the 1990 evaluation to the current Rawlins planning effort. Neither the Jep Canyon crucial winter range nor the Powder Rim crucial winter range have qualities or circumstances that make it fragile, sensitive, rare, irreplaceable, exemplary, unique, endangered, threatened, or vulnerable to adverse change when compared to other crucial winter range. The Jep Canyon ACEC was established under the existing Great Divide RMP in 1990 and the resources listed as important in 1990 also included the raptor nesting concentration area. The Jep Canyon ACEC does meet the relevance and importance criteria for the raptor nesting concentration area alone due to the significant nesting habitat for a variety of raptors. The nesting habitat within the Powder Rim is not considered a nesting concentration area and raptor nests are not found in greater proportions at Powder Rim than in other areas of similar habitat.

Issue Number 86: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM’s assertion that managing checkerboard ACECs is not practical or effective is therefore arbitrary and capricious and an abuse of discretion pursuant to [Administrative Procedures Act] APA, and cannot be used as a justification to remove ACEC status from checkerboard ACECs. The BLM must therefore reconsider its ACEC decisions for Jep Canyon, Shamrock Hills, and Como Bluff.”

Response:

The impact analysis in Chapter 4 of the PRMP/FEIS provides a discussion regarding the complications related to managing lands, such as the Jep Canyon area, within a “checkerboard”

pattern. Retention of the Jep Canyon ACEC designation would have provided little in the way of improved management opportunity. The checkerboard land pattern is difficult to manage, especially for wildlife habitat which is more effectively managed in large, contiguous blocks of habitat. Management effort directed toward wildlife and wildlife habitat is difficult when the goals of private landowners conflict or are not compatible with public land multiple-use goals and objectives. In such areas, management actions would need to be coordinated between the BLM and other surface owners. Those surface disturbing and disruptive activities that are not coordinated among various land ownerships influence wildlife daily activity, migration routes, and use of critical habitat such as aspen stands and/or windblown crucial winter use areas. In some situations, wildlife could be displaced to lower quality range that does not provide the necessary habitat components or sufficient quantity of required habitat components necessary for adequate maintenance of body condition or fitness. When implemented within the context of the checkerboard land pattern, the management actions in the Approved Plan are the maximum possible protection within the BLM's control.

The management goals in the Approved RMP are to manage the resources in the Jep Canyon ACEC/WHMA to protect crucial winter habitat for elk and nesting habitat for raptors (refer to p. 2-59, Management Goals). Management actions will allow the BLM to maintain or improve the habitat and protect the concentration of breeding and nesting ferruginous hawks, as well as other bird species, within the Shamrock Hills area (refer to p. 2-61, Management Goals). In addition, management action that will be implemented to provide adequate protection of species and associated habitat in the Jep Canyon and Shamrock Hills areas are included in the following appendices: Appendix 1 (Wyoming Bureau of Land Management Mitigation Guidelines for Surface Disturbing and Disruptive Activities), Appendix 15 (Best Management Practices for Reducing Surface Disturbance and Disruptive Activities), Appendix 26 (Road Management and Closures in Sensitive Habitat Areas), Appendix 31 (Rawlins Field Office Noxious Weed Prevention Plan), and Appendix 36 (Reclamation Plan). Although the Jep Canyon and Shamrock Hills are not designated ACECs, management actions are adequate to protect a diversity of wildlife species located throughout these areas.

Impact analysis in the PRMP/FEIS reaches a similar conclusion for the Como Bluff area. The historic fossil quarry sites are located on private land where the BLM has no management authority. There is no public access to the actual quarry site because it lies entirely within the checkerboard land pattern. The impact analysis for actions common to all alternatives (refer to pp. 4-208 through 4-210) and the impact analysis for Alternatives 2, 3 and 4 (which do not include the ACEC provision) support the adequacy of protection measures proposed to protect the paleontological and historic resources of the area (refer to pp. 4-212 through 4-214).

Issue Number 87: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“We find the BLM's argument that Jep Canyon cannot be managed as an ACEC due to checkerboard ownership unconvincing and not dispositive of the issue...once an area has sufficiently outstanding values to be identified as meeting the relevance and importance criteria for ACEC designation, that the BLM provide the maximum possible protection for the lands within its control.”

Response:

Management of areas within a checkerboard land pattern is addressed above. A management goal for the proposed Jep Canyon WHMA is to manage the resources therein to protect crucial winter habitat for elk and nesting habitat for raptors (refer to p. 2-59). Although the Approved Plan calls for the Jep Canyon area to be managed as a WHMA instead of an ACEC, the Management Actions Common to All Alternatives will allow the BLM to intensively manage surface disturbing and disruptive activities within the Jep Canyon area to prevent loss of significant habitat. Management actions to prevent damage to vegetation and wildlife habitat would be applied on a case-by-case basis. In addition, Appendix 1 (Wyoming Bureau of Land Management Mitigation Guidelines for Surface Disturbing and Disruptive Activities), Appendix 15 (Best Management Practices for Reducing Surface Disturbance and Disruptive Activities), Appendix 26 (Road Management and Closures in Sensitive Habitat Areas), Appendix 31 (Rawlins Field Office Noxious Weed Prevention Plan), and Appendix 36 (Reclamation Plan) all contain management actions to provide adequate protection of species and associated habitat in the Jep Canyon area. Although the Jep Canyon area is not designated as an ACEC, the BLM's analysis supports the determination that the management actions in the Approved Plan are adequate (refer to pp. 4-236 and 4-237).

Issue Number 88: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“While the Jep Canyon ACEC area (also protected for nesting raptors) is proposed as a wind energy exclusion area, the proposed plan would make this area an ‘avoidance area’ rather than an exclusion area for wind energy development. FEIS at Map 2-33... Leaving ‘one of the highest known nesting populations of ferruginous hawk in the United States’ open to wind farm and coalbed methane development in its key nesting area is recklessly irresponsible and will contribute to a trend toward listing for this species, in violation of the BLM Sensitive Species policy.”

Response:

Both the Jep Canyon WHMA and the Shamrock Hills raptor concentration area (RCA) are avoidance areas in the Approved Plan. Both of these areas are also within the checkerboard land pattern running through the Rawlins Field Office. As a result of the checkerboard land pattern, the BLM is obligated to provide reasonable access across public land to reach private land. For this reason, management of these lands as exclusion areas would be extremely problematic.

The Approved Plan commits the BLM to intensively manage surface disturbing and disruptive activities in all RCAs to reduce physical disturbance of raptor habitat and disturbance to the birds. Such management would be considered during a case-by-case examination of proposals (see pp. 2-103 through 2-212). As part of the examination of proposals, the BLM will analyze potential proposed actions in detail to identify opportunities to reduce and/or remove impacts to nesting raptors. Additionally, such intensive management will allow the BLM to meet the goal of managing for the biological integrity and habitat function of RCAs in an effort to sustain and optimize the distribution and abundance of all raptor species.

Management actions that would intensively manage surface disturbing and disruptive activities within these areas for the protection of raptor species are included in the following appendices: Appendix 1 (Wyoming Bureau of Land Management Mitigation Guidelines for Surface Disturbing and Disruptive Activities), Appendix 14 (Programmatic Biological Opinion for the Wyoming Bureau of Land Management Rawlins Resource Management Plan), and Appendix 15 (Best Management Practices for Reducing Surface Disturbance and Disruptive Activities). In addition, one of the management actions for species listed on the BLM Wyoming State Director's Sensitive Species List states that, "surface disturbing and disruptive activities that would potentially affect the habitat of special status species would be intensively managed on a case-by-case basis" (refer to p. 2-109).

Issue Number 89: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

The PRMP/FEIS failed to adopt the proposed Powder Rim ACEC.

Issue Number 90: PP-WY-Rawlins-08-55

Individual: Patricia Dowd

Issue Excerpt Text:

"The Powder Rim and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern, yet receive no protection."

Issue Number 91: PP-WY-Rawlins-08-08

Individual: Peggy B. LaPoint

Issue Excerpt Text:

"Important and sensitive areas like the Powder Rim and mountain plover nesting concentration areas were never even considered for protection."

Issue Number 92: PP-WY-Rawlins-08-39

Individual: Joyce M. Miller

Issue Excerpt Text:

"Powder River and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern (ACEC), yet receive no protection."

Issue Number 93: PP-WY-Rawlins-08-07

Individual: Mary Ann Stout

Issue Excerpt Text:

"Powder Rim and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern (ACEC), yet receive no protection."

Issue Number 94: PP-WY-Rawlins-08-18

Individual: Peter and Eva Crane

Issue Excerpt Text:

“Powder Rim and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern (ACEC), yet receive no protection.”

Issue Number 95: PP-WY-Rawlins-08-21

Individual: Paul Taylor

Issue Excerpt Text:

“Powder Rim and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern, yet receive no protection.”

Issue Number 96: PP-WY-Rawlins-08-30

Individual: Martie Crone

Issue Excerpt Text:

“Powder Rim and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern (ACEC), yet receive no protection.”

Issue Number 97: PP-WY-Rawlins-08-61

Individual: Ted Manahan

Issue Excerpt Text:

“Powder Rim and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern (ACEC), yet receive no protection.”

Issue Number 98: PP-WY-Rawlins-08-51

Individual: Tova Woyciechowicz

Issue Excerpt Text:

“The Powder Rim and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern, yet received no protection. Under Federal Land Policy and Management Act, the BLM must give ‘priority’ to designation and protection of ACECs.”

Issue Number 99: PP-WY-Rawlins-08-74

Individual: Dan and Janet W. Blair

Issue Excerpt Text:

“Not a single Area of Critical Environmental Concern has been exempted from drilling and mining... Powder Rim and mountain plover nesting areas meet all of the criteria to become ACECs, yet received no protections.”

Issue Number 100: PP-WY-Rawlins-08-05

Individuals: Val and Ken Hanson

Issue Excerpt Text:

“Powder Rim and mountain plover nesting areas meet all of the criteria to become Areas of Critical Environmental Concern, yet receive no protection.”

Response:

The Powder Rim proposed Area of Critical Environmental Concern (ACEC) did not meet the BLM’s Relevance and Importance criteria; however, one management goal included in the Approved RMP, as presented on page 2-103 of the PRMP/FEIS, states that “[the BLM will] manage for biological integrity and habitat function of terrestrial and aquatic ecosystems to sustain and optimize distribution and abundance of all native, desirable non-native, and Special Status fish and wildlife species,” which includes mountain plover present within the Powder Rim

habitat. The management actions contained throughout the PRMP/FEIS will be implemented to provide for adequate protection of species and associated habitats (including the Powder Rim area). See Appendices 1, 15, 16, 26, 31, and 36. Although the Powder Rim itself was not designated as an ACEC, management actions will be adequate to protect the diversity of wildlife species located throughout the area and reduce potential impacts. Innovative, dynamic, and economically feasible mitigation measures will be applied on a site-specific basis to reduce, prevent, or avoid adverse environmental impacts.

In summary, the BLM reviewed the plover nesting area relevance and importance evaluation and is satisfied that the evaluation accurately reflects the BLM's determination that the plover nesting areas do not meet both relevance and importance for ACEC designation. The plover are nonetheless afforded special management protections as outlined in Appendix 16 of the PRMP/FEIS (Mountain Plover Management Guidelines: Occupied Habitat Protection Measures). Numerous protection measures have been attached to proposed projects located within mountain plover habitat mapped in oil and gas field development project areas since 1998, because at that time, the oil and gas development projects were priority areas for determination of mountain plover habitat. Since that time, additional mountain plover habitat has been identified in the planning area for a diversity of proposed projects and management actions. Current protection measures are sufficient to protect mountain plover habitat. In addition, BLM protection measures have aided in the mountain plover "not warranted for listing" determination made by the FWS.

Since 2003, the mountain plover has been cooperatively managed in the Rawlins Field Office (refer to Manual 6840 BLM Special Status Species, 6840.22C, Cooperative Management Efforts). Conservation measures and best management practices for mountain plover were developed in coordination with the FWS "to provide further protection of the mountain plover and to prevent the species from becoming listed as 'threatened' or 'endangered' under the Endangered Species Act..." Existing and proposed management of projects incorporates protection measures in Appendix 16 that are adequate to protect mountain plover nesting habitat.

Issue Number 101: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

"The BLM erroneously concluded that mountain plover proposed ACECs in the Western Heritage Alternative do not meet relevance and importance criteria...arguing that they do not constitute a 'fish and wildlife resource' [and] that plover nesting habitat is abundant elsewhere in the planning area...The BLM's assertion that plover nesting habitat is widespread is unsupportable...current management protection measures are not adequate to protect mountain plover habitat."

Response:

As noted in the response to issue 100, the BLM reviewed the mountain plover proposed ACECs pertaining to plover nesting areas relevance and importance evaluation and is satisfied that the evaluation accurately reflects the BLM position that the plover nesting areas do not meet both relevance and importance criterion. Alternative management scenarios were presented in the DRMP/DEIS for management of mountain plover nesting habitat. Existing management was

determined to be adequate to protect mountain plover nesting habitat and is presented in the Approved Plan.

Issue Number 102: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM failed to consider the pictograph site in the Powder Rim proposed ACEC site in its ACEC analysis... It is therefore arbitrary and capricious and a abuse of discretion pursuant to the APA for BLM to rule that Power Rim does not meet relevance and importance criteria for its archaeologically important pictographs while simultaneously ruling that Red Rim meets these criteria for comparable features.”

Response:

The Biodiversity Conservation Alliance’s Western Heritage Alternative presented to the BLM Rawlins Field Office during public scoping for the Rawlins RMP defined the boundaries of the Powder Rim proposed ACEC. The boundary as presented in the Western Heritage Alternative does not incorporate any known pictograph sites. For this reason, no pictograph sites were included in the analysis of the relevance and importance criteria for the Powder Rim Area.

Issue Number 103: PP-WY-Rawlins-08-74

Individuals: Dan and Janet W. Blair

Issue Excerpt Text:

“Not a single Area of Critical Environmental Concern has been exempted from drilling and mining. . . . Power Rim and mountain plover nesting areas meet all of the criteria to become ACECs, yet received no protections.”

Response:

As noted above, the BLM has provided adequate protective measures for all areas within the planning area. Table 2-1 (Detailed Comparison of Alternatives) in the PRMP/FEIS includes desired future outcomes and objectives within the context of each resource or program’s goals and objectives, where appropriate. As implementation-level activity plans are developed, more specific goals and quantifiable objectives will be included to address the specific resource RMP-level goals and objectives. The BLM will continue to manage for biological integrity and habitat function of terrestrial and aquatic ecosystems. This management will sustain an optimal distribution and abundance of native, desirable non-native, and Special Status fish and wildlife species, including those present within the Powder Rim habitat (refer to the management goal presented on page 2-103, General Wildlife, Management Goals Common to All Alternatives). As is the case for other ACECs, management actions that will be implemented to protect species and associated habitat within these locations are found in Appendix 1 (Wyoming Bureau of Land Management Mitigation Guidelines for Surface Disturbing and Disruptive Activities); Appendix 15 (Best Management Practices for Reducing Surface Disturbance and Disruptive Activities); Appendix 26 (Road Management and Closures in Sensitive Habitat Areas); Appendix 31 (Rawlins Field Office Noxious Weed Prevention Plan); and Appendix 36 (Reclamation Plan).

The Instruction Memorandum 2003-275, entitled “Consideration of Wilderness Characteristics in Land Use Plans (Excluding Alaska),” states that the BLM has authority to designate ACECs

where special management attention is required to protect and prevent irreparable damage to important cultural, historic, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards. To qualify for consideration of the ACEC designation, such values must have substantial significance and value, with qualities of more than local significance and special worth, consequence, meaning, distinctiveness, or cause for concern. The Powder Rim area did not meet these criteria; nevertheless, the BLM will provide adequate protective measures for species and associated habitat within the Powder Rim area (see Appendices 1, 15, 26, and 36).

Issue Number 104: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“This [Sand Hills/JO Ranch ACEC] is an area that is highly prone to severe impacts from surface-disturbing activities. Directly threatened are the very features for which the ACEC was originally established: ‘Much of the unique bitterbrush complex is within the loosely compacted sand dunes that are highly erosive.’ FEIS at 4-216. But the proposed management of this area to protect this unique vegetation complex appears to be weakened, not strengthened, under the Proposed Alternative...It is clear that the BLM has failed to provide for the level of protection required by FLMPA for this.”

Response:

The adequacy of the protective measures in the Rawlins PRMP/FEIS is addressed above. Management of the unique vegetative complex of the Sand Hills ACEC, including the JO Ranch Expansion area, is the same for Alternative 1 and the Proposed Plan (refer to pp. 2-58). The impact analysis for Alternative 1 states that, “Management of the Sand Hills ACEC would protect the unique vegetation community, thereby maintaining the suitability of habitats for big game species and the relevant and important values of the ACEC” (refer to pp. 4-218). Impacts on the unique vegetative complex of the Sand Hills ACEC are the same for the No Action Alternative (Alternative 1) and the Proposed Plan (Alternative 4), with resulting management actions the same under both alternatives.

Issue Number 105: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“This area [Chain Lakes Proposed ACEC] has fair potential for wind energy development, yet Chapter 4 of the FEIS states that under all alternatives, the area would only be an ‘avoidance area,’ not an ‘exclusion area’ for wind energy development. FEIS at 4-248. By contrast, maps of wind energy development by alternative would make it an ‘exclusion area’ under Alternative 3 but an ‘avoidance area’ under no alternative. See FEIS at Maps 2-30 through 33. These inconsistencies render it impossible for the reader to determine how the BLM intends to manage wind energy development in this area.”

Response:

The protester is correct. The Rawlins PRMP/FEIS incorrectly lists the Chain Lakes area as a wind energy avoidance area in Impacts Common to All Alternatives (page 4-248). Under alternative 3, the Chain Lakes ACEC/WHMA is an *exclusion* area for wind energy development.

As a component of alternative 3, the wind energy exclusion area is correctly shown in Table 2-5 (p. 2-143), Map 2-32 and in section 4.13.7.4 (p. 4-252) of the PRMP/FEIS.

On page 2-144 of the PRMP/FEIS, the Chain Lakes area was omitted from the tabularized avoidance areas for alternatives 1, 2 and 4 (Table 2-5) and from Maps 2-30, 2-31 and 2-33. To resolve the protest, the Chain Lakes area has been added as an avoidance area in Table 2-5 in the Approved RMP. To further clarify, this addition is noted in the Record of Decision and a statement has been added to sections 4.13.7.2, 4.13.7.3, and 4.13.7.5 (from the PRMP/FEIS) that correctly identifies the area as a wind energy avoidance area.

Issue Number 106: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“[In the BLM’s response to comments on the DRMP/DEIS,] BLM states, ‘Actions that may affect the hydrology of the cave would be mitigated to ensure that the cave’s dynamics are not adversely effected [sic]’ ... This statement should be carried into the Final RMP as a standard for governing management of the ACEC.”

Response:

The BLM will maintain and protect the cave ecosystem for wildlife species, especially bats (see the Management Objectives for the Cave Creek Cave ACEC, p. 2-71). This management objective will allow the BLM to protect the hydrology of the cave system by implementing actions to provide for specific conditions required for bat species to maintain a viable population and would be implemented under all of the alternatives analyzed, including the Approved Plan. The protest letter provides no specific information that would lead the BLM to believe implementation of the Approved RMP would lead to significant impacts to the hydrology function as part of the Cave Creek Cave system.

In addition, Species Listed on the BLM Wyoming State Director’s Sensitive Species List, Management Action Common to all Alternative, states that surface disturbing and disruptive activities that would potentially affect the habitat of special status species would be intensively managed on a case-by-case basis (refer to p. 2-109). This action will allow the BLM to protect bat species and their associated habitats, such as Cave Creek Cave and required hydrology.

Issue Number 107: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“[Regarding the Prairie Dog ACEC] the adequacy of anti-perch devices on tall structures is questionable... Instead of ‘avoiding’ areas within 1/4 mile of prairie dog towns (which indicates that placement of tall structure may still occur under some circumstances - and contribute to impacts that contribute to a trend toward ESA listing in violation of BLM Sensitive Species policy), the BLM should ‘prohibit placement’ of tall structures within 1/2 mile of colony boundaries.”

Response:

As stated in the Proposed Plan, “the BLM will maintain, restore, or enhance designated BLM State Sensitive Species habitat in order to prevent listing under the ESA, in coordination and consultation with other local, state, and federal agencies and consistent with other agency plans, policies, and agreements” (refer to the Wildlife and Fisheries Management Objectives on p. 2-103 of the PRMP/FEIS). In addition, one of the management actions identified for Species Listed on the BLM Wyoming State Director’s Sensitive Species List provides that, “surface disturbing and disruptive activities that would potentially affect the habitat of special status species would be intensively managed on a case-by-case basis” (refer to p. 2-109). This action will allow the BLM to protect special status species, including the prairie dog, among others. In addition, the mitigation measures and BMPs found in Appendix 1 (Wyoming Bureau of Land Management Mitigation Guidelines for Surface Disturbing and Disruptive Activities) and Appendix 15 (Best Management Practices for Reducing Surface Disturbance and Disruptive Activities) will be incorporated into site-specific project proposals following adequate NEPA analysis. The management actions and mitigation measures will allow the BLM to protect sensitive species, including the white-tailed prairie dog.

Issue Number 108: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The importance of this area [Black-footed Ferret Recovery Area] has been ignored by the BLM...the experimental nonessential designation does not absolve agencies of the need to protect ferret habitat; it merely allows the species to be treated as proposed for listing rather than Endangered pursuant to the ESA, and in fact requires Federal agencies to develop conservation plans for such populations, plans which could (and indeed should, in this case) include ACEC designation...There is nothing in the ferret’s experimental, nonessential population direction that prevents the BLM from establishing an ACEC for the Recovery Area...the agency’s inconsistent management direction is arbitrary and capricious.”

Response:

As stated in Appendix 14 of the PRMP/FEIS, the FWS concurred with the determination that activities authorized under the PRMP/FEIS may affect the experimental non-essential population of black-footed ferrets in the Shirley Basin of Wyoming but will not likely jeopardize the continued existence of the species (Programmatic Biological Opinion for the Wyoming Bureau of Land Management Rawlins Resource Management Plan, Appendix 14, page iv). This concurrence is based on the fact that, by definition, any effects to an experimental non-essential population of any species will not jeopardize the continued existence of the species. The BLM will comply with the U.S. Department of the Interior (DOI) Federal Register, Volume 56, Number 162, August 21, 1991, Rules and Regulations to protect black-footed ferrets within the Shirley Basin ecosystem (refer to Appendix 1, p. 7).

As stated in the protest letter, a conservation plan is required. The Cooperative Management Plan for Black-footed Ferrets (Shirley Basin/Medicine Bow) is adequate to protect black-footed ferrets within the Shirley Basin ecosystem. According to BLM Manual 1613 Section .22, “at least one prescription for each potential ACEC must be developed which provides special management attention.” The Black-footed ferret reintroduction area does not require any

additional special management; therefore, an ACEC designation is not warranted to protect the values of the area.

Issue Number 109: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

Proposed management direction for newly established [Blowout penstemon Area of Critical Environmental Concern] ACEC does not protect the relevant and important values for which the area is designated. This violates the FLPMA's substantive directive to protect ACECs once they are designated. In many cases, adequately protective measures, applied elsewhere in the RMP, are not even considered for this area under any alternative, in violation of the NEPA's range of alternative requirements."

Response:

The adequacy of the range of alternatives for the PRMP/FEIS is addressed above in the *NEPA* section of this report. The Endangered Species Act provides for protection of Blowout penstemon and its habitat. However, potential habitat is not provided protection under ESA. Special management based on conservation measures adopted for Blowout penstemon (refer to the Biological Opinion of the FWS, Appendix 14) would allow for protection of relevant and important values within the potential Blowout penstemon ACEC.

Issue Number 110: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

"The state's designation of the area in question as Very Rare or uncommon thereby falsifies the BLM's flawed analysis of relevance and importance criteria for Adobe Town. The BLM must therefore recognize that Adobe Town meets ACEC criteria and consider an ACEC designation for the area in supplemental ACEC."

Issue Number 111: PP-WY-Rawlins-08-74

Individuals: Dan and Janet W. Blair

Issue Excerpt Text:

"None of the alternatives put unprotected lands in Adobe Town off-limits to future oil and gas leasing... [Adobe Town was left open to industrial destruction despite] the State of Wyoming's designation of Adobe Town as 'Very Rare and Uncommon.'"

Issue Number 112: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

"Adobe Town Dispersed Recreation Area must be fully protected. . . . The Rawlins RMP should recognize the State of Wyoming's designation of this area as a Rare or Uncommon Area, and approach and require management in this area accordingly. This is official policy of the State of Wyoming and the BLM has an obligation to adhere to it unless such direction is contrary to Federal policy."

Response:

The BLM completed an ACEC relevance and importance criteria determination as per BLM guidance in BLM Manual 1613 and concluded that the Adobe Town fringe area does not meet both relevance and importance criteria. The badland formations and scenic qualities of the Adobe Town fringe were determined to be unusual, but not rare or unique when compared to similar values within the Adobe Town WSA. Because the relevance and importance criteria were not met, the area was not considered for ACEC designation in any of the PRMP/FEIS alternatives. (Note: the Adobe Town fringe ACEC Proposal Evaluation Form is included on the Rawlins RMP website).

The designation of Adobe town by the Wyoming Environmental Quality Council (EQC) as ‘very rare or uncommon’ applies State of Wyoming protection only as related to *non-coal mining operations*. Other extractive uses are permitted (refer to EQC docket 07-1101 at 36 and 45). The BLM’s proposed management of the area, including the Adobe Town fringe, meets or exceeds the management protections of the State of Wyoming ‘very rare or uncommon’ designation. Examples of management actions applicable to the Adobe Town WSA and Adobe Town fringe areas include: surface disturbing activities would be intensively managed and would be subject to reclamation practices (Appendix 36; refer to p. 2-36); all lands would be managed to meet the Standards for Healthy Rangelands (refer to p. 2-42); the Adobe Town Dispersed Recreation Use Area would be a priority for reclamation after oil and gas development ceases (Appendix 37; refer to p. 2-43); the Adobe Town WSA would be managed according to the Interim Management Policy for Lands Under Wilderness Review (refer to p. 2-54); and the Adobe Town WSA would be closed to off-highway vehicle (OHV) use (32,650 acres; refer to p. 2-54).

Issues regarding lands with wilderness characteristics are addressed below in the *Wilderness Characteristics* portion of this report. Wilderness character is not a component of either relevance or importance in BLM Manual 1613 and thus, cannot be the sole reason or purpose for ACEC designation. Where ACEC values and wilderness characteristics coincide, the special management associated with an ACEC, if designated, may also protect wilderness characteristics (refer to BLM Manual 1613, Areas of Critical Environmental Concern).

Air Resources

Issue Number 113: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The FEIS fails to take a hard look at impacts to air quality.”

Response:

Compliance with NEPA’s requirement to take a ‘hard look’ at impacts in the planning area is addressed above in the NEPA portion of this report.

The emissions inventory was developed for the planning area using best available information concerning activities on BLM land provided by the RFO and summarized in Appendix 4. The

calculations used emissions factors accepted and recognized by State and Federal regulatory agencies (the Wyoming Department of Environmental Quality (WDEQ) and the Environmental Protection Agency (EPA) Region 8). Further, the BLM performed an adequate qualitative emission comparison approach for analysis of impacts on air quality, as presented in the PRMP/FEIS (refer to pp. 4-5 through 4-11). The results of this emissions inventory comparison approach are also given in Appendix 4. Additional analysis will be required for specific proposals as development projects are defined in the future.

Issue Number 114: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Although the BLM asserts that levels of ozone, atmospheric deposition, and visibility are too complex to predict in the context of cumulative impacts (id.), the BLM immediately contradicts this assertion by subsequently providing cumulative impacts analyses for ozone and atmospheric deposition from project-level NEPA. FEIS at 4-495.”

Response:

The BLM states in Chapter 4, section 4.20.3, “Because a quantitative relationship between expected air emissions calculated above and the subsequent potential cumulative impacts to ozone and the air quality values of visibility and atmospheric deposition are not known, it is not possible to quantify potential impacts to these air quality values from the sources in the region of influence. These cannot be quantified because of the complex nature of the formation of ozone, the complexity of visibility impairment, and atmospheric deposition in the atmosphere... However, because air quality analyses from recent energy development projects, such as those at Desolation Flats [DOI, BLM Draft Environmental Impact Statement – Desolation Flats Natural Gas Field Development Project, Sweetwater and Carbon Counties, Wyoming, April, 2003] and Atlantic Rim [refer to DOI, BLM Final Environmental Impact Statement for the Atlantic Rim Natural Gas Field Development Project, Carbon County, Wyoming, November 2006], estimate potential impacts to visibility, emissions described in section 4.2 might contribute to significant impacts to visibility (Table 4-9 and Table 4-10). The sources modeled for Desolation Flats and Atlantic Rim have some similarities to the Rawlins [planning area] analysis” (refer to p. 4-494). Data from these two projects in the Rawlins Field Office are presented in order to disclose possible future development in the planning area and potential contributions to air quality impacts to a number of Class I areas.

Issue Number 115: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM has not presented any baseline information on particulate matter pollution in this area.”

Issue Number 116: PP-WY-Rawlins-08-65

Individual: Chuck Mollica

Issue Excerpt Text:

“Increased pollution...Whether air, water, sound or light is not adequately limited. Also part of Best Practice models (or should be), these concerns should not be part of a ‘collateral damage’ concept. They affect all users and populations and are not adequately addressed. The plan should be revised in these areas.”

Response:

The BLM has included particulate matter in its air quality analyses contained in Appendix 4 (Air Quality Impact Technical Support Document, refer to p. A4-11, Table A4-3). The Assumed Background Concentrations and Applicable Ambient Air Quality Standards and Prevention of Significant Deterioration (PSD) Increment Values are also included in Table A4-11, as well as information regarding background Particulate Matter (PM) concentrations. Table A4-5 contains information of PM concentrations from BLM administered land and Sulfur Oxide (SO) sources for 2003 (refer Appendix 4, p. 20). In addition, Table A4-6 contains information of PM concentrations from BLM administered land and Sulfur Oxide sources for 2008 (refer to p. A4-20).

The BLM performed an adequate qualitative emission comparison approach for analysis of impacts on air quality, as presented in the PRMP/FEIS (refer to pp. 4-5 through 4-11). The results of this emissions inventory comparison approach are also given in Appendix 4. Additional analysis will be required for specific proposals as development projects are defined in the future.

As noted above, the emissions inventory was developed for the Rawlins planning area using best available information concerning activities on BLM land provided by the Rawlins Field Office and summarized in the Appendix 4. The calculations used emissions factors accepted and recognized by State and Federal regulatory agencies (WDEQ and the EPA, Region 8). This analysis selected three different time frames to evaluate future emissions. The time frames reflect the current base year conditions (2003), short-term impacts (current to 2008), and long-term impacts (current to 2023). It is assumed that all, if any, emission growth will be constant and linear in time.

The WDEQ - Air Quality Division would subsequently require demonstration of compliance with Federal and State air quality regulations and standards for any future development projects by the BLM and proponents. In addition, under the FLPMA and the Clean Air Act, the BLM cannot authorize any activity that does not conform to all applicable local, State, tribal, and Federal air quality laws, regulations, standards, and implementation plans.

One of the management objectives for surface water quality is intensive management of surface disturbing activities in watersheds contributing to waterbodies on the Wyoming 303(d) impaired waters list (refer to pp. 2-98, 2-99, and Appendix 13). Proposed projects above Class I waters will receive special consideration during the NEPA process to ensure that the proposed project actions do not degrade these waterbodies beyond the uses specified. Each proposed project will be evaluated individually to determine the most appropriate BMPs to be implemented (refer to Appendix 13). The BLM reviews each individually proposed activity to ensure that the potential non-point source pollution does not enter into Class I and/or 303(d) listed waterbodies by applying appropriate BMPs and Conditions of Approval (COAs) for each activity. Although the WDEQ and the State Engineers Office have jurisdictional authority over point sources and water

rights respectively, the BLM is required under the NEPA to analyze impacts and require mitigation, as appropriate, from site-specific proposals. For proposed oil and gas development projects, we realize that surface runoff from roads and well pads is an issue when in the proximity of Class I and State listed 303(d) waterbodies and analyze the issue accordingly under the NEPA.

Individual assessment of Approved Plan implementation-level management actions will occur under the guidelines found in the NEPA. The BLM continues to implement current and best available BMPs to include prevention and mitigation for known impacts, as appropriate. The appropriate analysis will occur at the activity-level planning. (refer to Appendix 11). It is difficult to forecast where and when activities within the planning area will affect water quality standards in watersheds and cause waterbodies in the area to exceed State of Wyoming water quality standards (refer to p. A38-211). A brief response addressing general water quality concerns pertaining to oil and gas development is also found in Appendix 38 (refer to p. A38-204). A discussion of BMPs for surface discharge of water, roads, road crossings, wells, pads, facilities, and drilling is included in Appendix 13. The impact analysis referenced in the protester's letter is not specific to 303(d) listed waters. The BLM, consistent with the State of Wyoming DEQ water quality regulations, will manage 303(d) listed waters through the management objectives and management actions found in Table 2-1 of the PRMP/FEIS (refer to pp. 2-98 through 2-100).

Issue Number 117: PP-WY-Rawlins-08-32

Individual: Barbara Parsons

Issue Excerpt Text:

“The FEIS [Final Environmental Impact Statement] allows for a doubling of allowed air pollution. While BLM leaves air quality control to the state, both the BLM and DEQ [Department of Environmental Quality] seem to be ignoring the huge increases of air pollution due to uncontrolled methane releases. The FEIS gives little attention to the methane venting that is apparently migrating from drilled areas through the fractured seams below.”

Response:

The Rawlins PRMP/FEIS did not analyze potential greenhouse gas impacts, since information and BLM policy was neither available during early stages of the Rawlins land use planning effort, nor prior to the printing of the PRMP/FEIS. The Record of Decision, section 1.1.3 elaborates on the Global Climate Change issue, and further discussion is provided in the response to issue 123 and 123A, below.

Methane emissions are not regulated by either the EPA or the Wyoming DEQ. Additionally, national or State standards do not exist for methane emissions. Currently the EPA has not established emissions thresholds for methane or any other greenhouse gas (see also the *Global Climate Change* section of this report, issues 123 and 123A). Without a method or meaningful metric established by EPA, there is no jurisdictional or compliance responsibility for the EPA or the State of Wyoming in regard to methane emissions.

The current analysis within the Rawlins PRMP/FEIS is consistent with the NEPA, which does not require agencies to address “remote and highly speculative consequences,” such as the possibility that isolated, unknown and “impossible to predict” natural phenomena like methane seeps would occur. However, the planning area is being surveyed for methane seeps, and all known sites are being monitored.

The Record of Decision, section 1.1.1.2, further elaborates and clarifies that the BLM does not expect increased seepage of methane from natural methane seeps. However, increased or decreased methane venting could occur and may locally kill vegetation, affect water quality, and be an increased hazard if the gases are vented near an ignition source.

Issue Number 118: PP-WY-Rawlins-08-107
Organization: Wyoming Outdoor Council

Issue Excerpt Text:

This [qualitative] ‘analysis’ is insufficient to meet the requirements of NEPA. An EIS [Environmental Impact Statement] must consider the environmental impacts of a federal action, it must consider the effects of the action.”

Response:

The PRMP/FEIS includes a sufficient air quality study and analysis that considers the direct and indirect effects, as well as cumulative effects. This analysis can be found in Table 4-1, sections 4.2 of the PRMP/FEIS (pp. 4-7 through 4-11), numerous Figures, and in Appendix 4. The BLM states that a number of considerations were made when determining that a qualitative air quality impacts analysis was appropriate (refer to p. A4-27). The BLM has concluded that “quantitative analysis will be required as development projects are defined in the future,” and “WDEQ-AQD [Wyoming Department of Environmental Quality, Air Quality Division] will require demonstration of compliance with Federal and State air quality regulations and standards for any future development projects.”

Future implementation activities on BLM-administered lands will require site-specific environmental analysis before actions can be approved. For every individual project or request, a NEPA analysis specific to that proposal will be completed and appropriate mitigation measures will be identified therein. Because proposed site-specific activities must comply with other laws and regulations, additional specific mitigation requirements may be required. As with any other NEPA process, these future site-specific NEPA analyses will include the opportunity for additional public participation. When completing broad impact statements, such as the PRMP/FEIS, the BLM may ‘tier’ its NEPA analysis in this manner. Please see 40 CFR §§ 1502.20 and 1508.28(a).

Issue Number 119: PP-WY-Rawlins-08-107
Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“A consideration of the environmental effects of an action requires a consideration of both the direct and indirect effects. . . . Here the BLM has provided no such analysis, it has presented an inventory of the likely increase in pollutants but it has made no attempt to consider the direct effects that ‘are caused by the action and occur at the same time and place’ nor has it made any attempt to consider indirect effects ‘that are caused by the action and are later in time or farther removed in distance.’”

Response:

As explained above, the emissions inventory was developed for the Rawlins planning area using best available information concerning activities on BLM land provided by the Rawlins Field Office and summarized in the Appendix 4. The calculations used emissions factors accepted and recognized by State and Federal regulatory agencies (WDEQ and the EPA Region 8). This analysis selected three different time frames to evaluate future emissions. The time frames reflect the current base year conditions (2003), short-term impacts (current to 2008), and long-term impacts (current to 2023).

Issue Number 120: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“It is utterly arbitrary to have one Field Office engaging in a quantitative analysis while an immediately adjacent Field Office engages in a qualitative analysis. The two analyses are entirely incomparable and therefore of greatly reduced utility. This is totally contrary to rational land use planning and management, as well as NEPA.”

Response:

The BLM’s Little Snake Field Office took the same approach that was taken by the Rawlins Field Office when completing air quality analysis in the Little Snake DRMP/DEIS (released in early 2007). However, upon their review of the document, the EPA requested that the BLM Little Snake Field Office provide more detailed analysis showing how Class I airsheds, such as the Flattops and Mount Zirkel Wilderness Areas, will be affected by planning decisions. The BLM’s willingness to respond to this specific request by the EPA for further information in the Little Snake RMP is not and should not be considered a reflection upon the adequacy of air quality analysis within the Rawlins PRMP/FEIS.

Issue Number 121: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“BLM must consider ozone pollution impacts in the Rawlins RMP. . . . The Rawlins RMP predicts dramatic increases in ‘ozone precursors’ (primarily VOC [Volatile Organic Components] and NOX [Nitrous Oxide], but also carbon monoxide) so clearly there is a strong likelihood for an increase in the ozone concentration in the area. Given that the national ambient air quality standard is almost exceeded already and given that EPA is poised to lower the standard even farther so as to fully protect human health and welfare, the BLM cannot just ignore this issue in the Rawlins RMP.”

Response:

The qualitative emission comparison performed in cooperation with the WDEQ, EPA, National Park Service, and United States Department of Agriculture Forest Service is appropriate and is in compliance with the NEPA. Ozone is discussed in the PRMP/FEIS in Chapters 3 and 4 as well as in Appendix 4. Data presented in Chapter 3 (Affected Environment) indicate that ozone concentrations were 94 percent of the pre-March 2008 Wyoming Ambient Air Quality Standard (WAAQS) and National Ambient Air Quality Standard (NAAQS) 8-hour standard (refer to Table 3-1, p. 3-4). Chapter 4, Cumulative Impact analysis points out that background O3 is high (94 % of pre-March 2008 NAAQS and WAAQS). No exceedances have been observed (refer to pp. 4-493 through 4-497). Appendix 4 - Air Quality Impact Technical Support Document describes the processes used to conduct the air quality impact assessment for the air resources in the planning area and provides summaries of relevant analysis data. This includes all criteria pollutants including ozone and its precursors.

In addition, future, project-specific NEPA analyses will be completed to analyze and consider appropriate mitigation measures for ozone precursors and atmospheric constituents affecting visibility.

Issue Number 122: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“Ensure that the BLM ‘provides for compliance’ with applicable clean air laws. . . . The Rawlins RMP is virtually silent regarding any protections that would be applied to protect air quality. Generally, the BLM would do little more than leave protection of air quality to the State of Wyoming and assist in monitoring efforts.”

Response:

The BLM has complied with all applicable clean air laws, including the Clean Air Act (CAA) as well as Federal regulations promulgated under the CAA that assign the EPA and the State of Wyoming jurisdictional and compliance authorities and responsibilities specific to those government entities (refer to CAA, Title I, Pollution Prevention and Control, Section 109; CAA, Title I, Section 116; and 40 CFR § 52.2620; 40 CFR Part 50, Protection of Environment with authorities under 42 U.S.C. § 7401, *et seq.* State of Wyoming primacy, roles and responsibilities). The Approved Plan also commits the BLM to implementing management actions to improve air quality as practicable (refer to pp. 2-21 and 2-22).

Global Climate Change

Issue Number 123: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Failure to take a hard look at impacts to global climate change. . . . The Rawlins RMP/EIS predicts the number of wells that will be drilled, but it does not predict the overall direct and cumulative effect of both production-related emissions and combustion of oil, gas, and coal on carbon dioxide output and thereby

global climate change. Conversely, the effect of reasonably foreseeable shifts in climate at the local level on various resources and land uses also is needed... The BLM does provide some baseline information indicating that over the long-term, the RMPPA is experiencing a steady change in average degrees Fahrenheit per decade.”

Issue Number 123A: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“BLM must consider the impacts of implementation of the Rawlins RMP on climate change and global warming and must consider the implications of climate change on the environment in the Rawlins Field Office that will be subject to the RMP. . . . Not only will the CO₂ emissions generated by activities occurring on BLM lands contribute to global warming, the impacts of global warming are likely to affect management actions and options in the Rawlins Field Office. . . . BLM should provide an estimate of the quantity of CO₂ emissions that will be generated by activities on BLM lands and identify means to reduce those emissions. At least as importantly and perhaps more importantly, the BLM should identify the quantity of methane (CH₄) that will be emitted as a result of oil and gas development activities and identify means to reduce those emissions. Methane of course is a far more "powerful" greenhouse gas than is carbon dioxide. . . . The failure to provide at least this level of analysis of climate change issues makes the Rawlins RMP legally deficient.”

Response:

As discussed in section 4.2 of the PRMP/FEIS, the BLM carried out a qualitative emission comparison approach when analyzing impacts to air quality from the proposed action and the alternatives. Simply because greenhouse gases may be emitted at the implementation stage, does not mean that the RMP or any future implementation action will impact the environment by resulting in a measurable increase in global temperature. There is currently a lack of science to show with the reasonable degree of accuracy necessary for a NEPA analysis that greenhouse gases from a particular agency action will either directly or indirectly result in an increase in temperature at a global scale. As such, while an individual agency action could result in the emission of greenhouse gases, it is not possible to identify the specific impacts from an agency action on climate change and the action’s contributions to greenhouse gases generally will not warrant detailed analysis in a NEPA document, especially at the planning stage when specific future site-specific actions have not yet been identified.

Nevertheless, I will direct the Wyoming State Director to consider the effects of greenhouse gas emissions and global climate change on the Rawlins Field Office area, as well as the effects of site-specific projects on global climate change, as appropriate in the future. For example, when the BLM conducts NEPA analyses supporting site-specific actions, such as oil and gas field development, allotment management plans, and public land use authorizations, such analyses may be appropriate. The public will have the opportunity to participate in the environmental analysis process for actions implementing the Approved Plan. The Record of Decision further elaborates on Global Climate Change in section 1.1.3.

Methane emissions are also discussed above in the *Air Resources* portion of this report and are discussed in section 1.1.1.2 of the Record of Decision.

Cultural Resources (including historic trails)

Issue Number 124: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Significant impacts would occur in areas where the BLM must allow the lease holder to develop the lease and where adverse effects to the historic trails cannot be avoided.’ Here, the BLM (and the proposed Plan) gets the legal priorities exactly reversed. The agency’s position misconstrues governing law and runs counter to recent authority confirming that lease issuance does not convey absolute, inalterable rights in the lessee.”

Response:

The Wyoming State Historic Preservation Officer (SHPO) was a cooperating agency in the development of the Rawlins RMP and has been consulted in accordance with the NHPA. Further, the appropriate citation from the Code of Federal Regulation states that “A lessee shall have the right to use so much of the leased lands as is necessary to explore for, remove and dispose of all leased resources in a leasehold subject to stipulations attached to the lease, restrictions derived from specific statutes, and reasonable measures as may be required to minimize adverse impacts not addressed in the lease stipulations at the time operations are proposed” (43 CFR § 3101.1-2).

The decision maker shall attach stipulation(s) to the lease to ensure new lessees are informed that additional consultation under the National Historic Preservation Act (NHPA) and other relevant authorities may be required and that the results of these consultations may affect potential development. The stipulation states, “This lease may be found to contain historic properties and/or resources protected under the NHPA, American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, Executive Order 13007, or other statutes and executive orders. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated [BLM Washington Office Instruction Memorandum] (WO IM-2005-003).”

Issue Number 125: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Because the BLM has not addressed Section 110 and has not put forth a coherent program in the final plan for identifying and evaluating historic properties, the agency has not complied with Section 110.”

Response:

The BLM has complied with Section 110 of the NHPA and has also followed direction found in BLM Manual 8130, Planning for Uses of Cultural Resources, in the development of the PRMP/FEIS (refer to pp. 2-22, 3-17, and A5-1). The BLM completed consultation with the Wyoming State Historic Preservation Office (which was, as noted above, a cooperating agency

in this planning process) regarding the cultural resource program and management actions listed in Table 2-1 before the proposed plan was issued (refer to pp. 2-22, 5-1, and A5-1). For a comprehensive description of the Rawlins cultural resource program, please see the text in the PRMP/FEIS, Appendix 5, Cultural Resources Management (refer to pp. A5-1 through A5-11).

Issue Number 126: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM’s failure to require systematic field inventories by trained professionals will necessarily lead (according to the BLM’s own analysis) to significant impacts to historical sites and their settings which are [National Register of Historic Places] NRHP-eligible and therefore protected by the National Historic Preservation Act.”

Response:

The adequacy of the protective measures, particularly those for cultural resource, in the Rawlins PRMP/FEIS is addressed above. The BLM will conduct a cultural resource inventory, an evaluation of sites’ eligibility for inclusion on the NRHP, and an assessment of potential effects from Federal actions, as required by law, before the initiation of all surface disturbing and other disruptive activities (refer to p. A5-1). This generally requires a Class III (100 percent) survey of the affected area and allows for prescriptive mitigation of impacts through avoidance or other measures where necessary (refer to pp. 4-12 through 4-13 and pp. A5-1 through A5-2). For a comprehensive description of the Rawlins cultural resource program, please see the text in the PRMP/FEIS, Appendix 5, Cultural Resources Management.

Issue Number 127: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“It is arbitrary and capricious and an abuse of discretion for the BLM to exempt portions of NRHP-eligible trails from full protection under the NHPA.”

Issue Number 128: PP-WY-Rawlins-08-77

Organization: Alliance for Historic Wyoming

Issue Excerpt Text:

“In regards to historic trails protection, [we are concerned about the] lack of any comprehensive study of the current state of the trails under your management jurisdiction. We again implore you to undertake a complete inventory of these trails and to release this analysis in a comprehensive document...Since we do not have any baseline studies that tell us what the current condition of the trails under your jurisdiction is, it is hard to properly evaluate this sort of degradation [resulting from contributing versus non-contributing segments of the trails].”

Response:

At this time, no comprehensive study of the historic trails has been completed for the Rawlins planning area. However, the BLM has determined that the historic Overland and Cherokee Trails, Rawlins to Fort Washakie Freight Road, and Rawlins to Baggs Freight Road are eligible

for the National Register of Historic Places (refer to p. A5-4). Some portions of the trails no longer retain the aspects of integrity necessary for eligibility however. The current condition of the historic trails is determined during the project-level analysis for any proposed project that occurs near the trails. Trail segments are evaluated pursuant to the NRHP criteria of integrity, established by location, design, setting, materials, workmanship, feeling, and association (refer to pp. 4-12 through 4-13 and p. A5-3 through A5-5). If a predominance of the criteria is met, the segment will be considered contributing to the properties' overall National Register of Historic Places (NRHP) eligibility. If the segment of the trail contributes to the overall NRHP eligibility, the entire setting for that segment is managed in accordance with the management actions identified in Table 2-1 and Appendix 5 (refer to p. 2-22 and pp. A5-4 through A5-9).

Issue Number 129: PP-WY-Rawlins-08-77

Organization: Alliance for Historic Wyoming

Issue Excerpt Text:

“We are also concerned that your recreational analysis does not seem to have taken into consideration the special and unique needs and desires of heritage tourists....This is a major oversight in your RMP and we would strongly urge you to address the specific and unique issues involved in promoting this area as a heritage destination before issuing your final document.”

Response:

Heritage tourism is addressed under Cultural Resource Use Allocations – Public Use (refer to pp. 2-22, 3-18, and 4-13). Sites identified for public use include properties appropriate for interpretive, educational, or recreational uses by the general public.

The BLM has identified specific cultural properties for recreational use which include the JO Ranch and historic trails (refer to p. 3-18). The historic trails will be managed for long-term heritage, recreational, and educational values (refer to pp. 2-22, 2-74, and 4-289). The historic JO Ranch would be managed for its historic and cultural values through public interpretation and education (refer to pp. 2-57 to 2-59 and p. 4-225). The BLM cannot disclose the locations of cultural resource sites if the identification of such places for public use would in some way cause degradation or harm (refer to 43 CFR § 7.18). Most cultural resource sites are not identified for this reason.

Issue Number 130: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM proposes to eliminate not only the ACEC in this area [Como Bluff], but to manage mineral and wind energy development in such a way that fails to protect the setting of the Historic District, in violation of the [National Historic Preservation Act] NHPA...This level of impact is expressly prohibited by the NHPA, which directs agencies, to protect historic sites and their settings.”

Response:

The protections mandated by law for cultural resources will adequately protect significant and/or sensitive cultural resources in the Como Bluffs Area; and the Rawlins PRMP/FEIS adheres

closely to them. Protections are additionally supplemented by the management actions in the PRMP/FEIS (refer to p. 2-22, Table 2-1 for management actions specific to protection of cultural resources and associated setting). A comprehensive description of the Rawlins cultural resource program, including the BLM's responsibilities on non-Federal lands, is found in Appendix 5, Cultural Resources Management.

According to Section 106 of the NHPA and its implementing regulations found at 36 CFR § 800, the BLM is required to assess the effects of a project and then apply mitigation measures, as appropriate. The NHPA also directs the BLM to mitigate significant impacts to cultural resources (refer to the implementing regulations of Section 106 of the NHPA found at 36 CFR § 800.6, Resolution of Adverse Effects). Within the implementing regulations of Section 106 of the NHPA found at 36 CFR § 800.4(d)(2), historic properties may be affected by Federal undertakings. The BLM will continue to follow these implementing regulations for all Federal undertakings in the planning area.

Issue Number 131: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM would implement mitigation measures that would ‘reduce the potential’ for significant impacts or strive for ‘minimization’ of significant effects, but not eliminate them. FEIS at 4-289. This Act requires that [National Register of Historic Places] NRHP-eligible sites, and their settings, be protected entirely; significant impacts are not allowed under any circumstances.”

Issue Excerpt Text:

“It is a violation of the NEPA’s ‘range of alternatives’ requirement that the BLM has failed to provide even one alternative with sufficiently strong mitigation requirements to prevent significant impacts to historical and cultural resources eligible for the NRHP.”

Issue Excerpt Text:

“Under the proposed plan, ‘Development activities associated with wind energy, utility/transportation systems, and communication sites would significantly impact the historic trails where the setting contributes to the properties’ NRHP eligibility.’ FEIS at 4-304. This is a legally unacceptable outcome under the NHPA.”

Issue Excerpt Text:

“EPA has pointed out that no alternative provides adequate protections for historical and cultural resources, yet the BLM’s response to this comment did not address the substance of this criticism, in violation of the NEPA.”

Issue Number 132: PP-WY-Rawlins-08-77

Organization: Alliance for Historic Wyoming

Issue Excerpt Text:

“We find this statement on p. 4-31 under your preferred alternative to be very discouraging: ‘It is anticipated that significant impacts to cultural resources would occur.’ By flatly declaring this to be true, it appears that the Rawlins BLM is knowingly abdicating their responsibilities [National Historic Preservation Act and the Archaeological Resources Protection Act] to protect Wyoming’s cultural heritage....Additionally, we would like to take exception to a statement that appears on p. 4-12 of this document. You state: ‘... when avoidance would be detrimental to other resource values and management direction, mitigation of impacts to cultural resources would be performed in proportion to their

significance.’ By including this language, it appears as though Rawlins BLM is relegating their mandate to protect cultural resources to a lower status than other resources under your control.”

Response:

The adequacy of the reasonable range of alternatives for the PRMP/FEIS is addressed in the *NEPA* section above. The adequacy of the protective measures, particularly those for cultural resource, in the Rawlins PRMP/FEIS is also addressed above. The protester’s assertion that NRHP requires that NRHP-eligible sites and their settings must be entirely protected is incorrect.

As stated above, historic properties may be affected by Federal undertakings; however “the head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking...shall take into account the effect of the undertaking on any district, site, building...that is included in or eligible for inclusion in the National register.” A significant impact entails an adverse effect to cultural resources, as defined in 36 CFR § 800.5 as “an undertaking [that] may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association.” In complying with the NEPA, the Rawlins PRMP/FEIS has disclosed that such an effect may occur during the life of the plan (refer to p. 4-12, Environmental Consequences).

While avoidance is the preferred method for mitigation of impacts to cultural resources, avoidance is not always possible. In those cases, the assumption for analysis is that other mitigation measures would be employed to mitigate impacts to the cultural resource. Management actions specific to protection of cultural resources are described in Table 2-1 and Appendix 5 (refer to p. 2-22 and p. A5-11). Additional information regarding the NHPA and the Archaeological Resources Protection Act (ARPA) can be found in Appendix 5 of the PRMP/FEIS (refer to pp. A5-1 through A5-11).

A clarification has been made in the ROD to more adequately respond to EPA’s comment on the DRMP/DEIS found on Comment ID line 2719 of the Rawlins RMP comment database (Rawlins RMP website).

Issue Number 133: PP-WY-Rawlins-08-51

Individual: Ron Marquart

Issue Excerpt Text:

“The plan allows gas fields to be built as close as 1/4 mile to important historic trails and sites. This degrades their historic setting.”

Response:

The protections mandated by law, regulation, and policy for cultural resources will adequately protect significant and/or sensitive cultural resources. Protections are additionally supplemented by the management actions in the PRMP/FEIS (refer to p. 2-22, Table 2-1 for management actions specific to protection of cultural resources and associated setting).

As previously noted, the BLM is required to assess the effects of a project and then apply mitigation measures, as appropriate. Significant impacts to cultural resources are to be mitigated as well (36 CFR § 800.6). Within the implementing regulations of Section 106 of the NHPA, found at 36 CFR § 800.4(d)(2), historic properties may be affected by Federal undertakings. The BLM will continue to follow these implementing regulations for all Federal undertakings in the planning area. In complying with the NEPA, the Rawlins PRMP/FEIS has disclosed that such an effect may occur during the life of the plan (refer to p. 4-12, Environmental Consequences). As noted above, management actions specific to protection of cultural resources are described in Table 2-1 and Appendix 5 (refer to pp. 2-22 and A5-11). Also see Appendix 5 at pp. A5-1 through A5-11.

The BLM has complied with Section 110 of the NHPA and BLM Manual 8130, Planning for Uses of Cultural Resources, in the development of the PRMP/FEIS and has consulted with the Wyoming State Historic Preservation Office regarding development of the cultural resource program and management actions listed in Table 2.1 (refer to pp. 2-22, 5-1, and A5-1).

Issue Number 134: PP-WY-Rawlins-08-90
Organization: Devon Energy Production Company

Issue Excerpt Text:

“Devon protests the BLM's proposed management for cultural resources. The BLM indicates that under the Preferred Alternative in the Proposed Rawlins RMP ‘Surface disturbing activities would not be allowed within 1/4 mile of a cultural property or the visual horizon, whichever is closer, if the setting contributes to NHRP [National Register of Historic Places] eligibility. . . . [T]he proposed management is far too inflexible because it mandates the imposition of a 1/4 no surface occupancy zone, regardless of the site-specific conditions or the nature of the cultural property.’”

Response:

This management action is designed to avoid surface disturbing activities that will clearly violate the intent of the law while allowing for some flexibility. Avoidance of the property by ¼ mile, or the visual horizon, whichever is closer, allows for consideration of the site-specific conditions in a project area (p. 2-23 of the PRMP/FEIS). This action only applies to those eligible cultural properties where the setting contributes to the NRHP eligibility. The management action will apply to both existing and new oil and gas leases, while protecting existing lease rights. In those situations where an existing lease cannot be developed because of this action, other mitigation measures will be developed on a site specific basis through consultation between the BLM, SHPO, project proponent, and other demonstrated interested parties (refer to pp. A5-1 through A5-11 for additional information regarding the Cultural Resource Program). Table 2-6 identifies the estimated historic trails and non-trails Federal subsurface mineral acreage that would be affected by the implementation of this ¼ mile restriction.

For additional information of how the setting may contribute to the eligibility of a historic property, refer to the State Protocol between the Wyoming BLM State Director and the Wyoming State Historic Preservation Officer, located at <http://wyoshpo.state.wy.us/Section106/pdf/ProtocolFinal.pdf>. Also refer to the cultural resource

implementing regulations found at 36 CFR § 800, or National Register Bulletin 36 “Guidelines for Evaluating and Registering Historical Archaeological Sites and Districts.”

Fish, Wildlife, Plants and Special Status Species *Fish and Wildlife – General Issues*

Issue Number 135: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The FEIS fails to meet NEPA’s requirements regarding baseline information...Overall, the Rawlins RMP FEIS suffers from a deficiency of baseline information for many important resources, and as a result of the absence of baseline data, the impacts analysis suffers accordingly.”

Issue Number 137: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“Knowledge of species biology and ecology is insufficient to allow effective intensive management.”

Response:

The BLM believes the baseline data provided in Chapter 3 and various appendices in the PRMP/FEIS is sufficient to support the environmental impact analysis resulting from management actions presented in the PRMP/FEIS (refer to Appendix 2, 3, 4, 5, 10, 11, 12, 14, 19, 22, 28, 29, 30, 35, and 37). Much of the data in the PRMP/FEIS is presented in map form and is sufficient to establish the appropriate scale of impact analyses required (refer to Maps 3-1 through A8-1). The baseline data provides the necessary basis to making informed land use plan-level decisions.

The BLM made every effort to use the most recent and best information available that was relevant to a land use planning scale of analysis. During preparation of the RMP/EIS, the BLM consulted with and utilized data from other agencies/sources, including but not limited to: U.S. Geological Survey (refer to p. 3-37 and pp. 3-128 through 3-131, among others); Wyoming Game and Fish Department (refer to pp. 3-143; 3-147 through 3-149; 3-160; among others); Wyoming State Geologic Survey (refer to pp. 3-34 (Ver Ploeg), 3-39 (Glass and Roberts), and 3-44); State of Wyoming Oil and Gas Commission (refer to pp. 3-38 through 3-39); FWS (refer to pp. 3-152 and others; Appendix 14); United States Department of Agriculture (refer to pp. 3-3 through 3-9; 3-50; among others); NRCS (refer to pp. 1-14; 3-30; among others); Native American Tribes (refer to p. 5-5); the Wyoming Natural Diversity Database (refer to pp. 3-119 and A38-197); WDEQ-Air Quality Division (refer to pp. 3-3 through 3-9); WDEQ-Water Quality Division (refer to pp. 3-31, 3-128 through 3-129; among others).

To the extent that the protesters raise the issue of inadequate “knowledge of species biology and ecology”, the BLM has the following response:

The BLM collaborated on the analysis and the incorporation of available data into the PRMP/FEIS with its cooperating agencies. Considerations included but were not limited to: big

game herd numbers and trends; migratory routes and uses; critical highly important habitat areas (i.e., wintering, calving), locations, and sensitivities; greater sage-grouse breeding, nesting, and brood-rearing and wintering areas; oil and gas development potential; livestock grazing use; uses on State lands; and heritage resource values including traditional Native American concerns (refer to p. 1-14).

Land use plan-level decisions are typically allocative rather than focused on site-specific actions. The PRMP directly authorizes no actions. The BLM will conduct subsequent NEPA analyses when specific projects and/or implementation plans are proposed, such as for oil and gas field development, allotment management plans, and public land use authorizations. These activity plan-level analyses will tier to the land use planning analysis and extend the environmental analysis by using information from any specific project proposal. In compliance with the NEPA process, the public will have the opportunity to participate in the environmental analysis process for these actions.

Prior to commencing the Rawlins land use plan revision process and throughout the planning effort, the BLM considered the availability of data from all sources, adequacy of existing data, data gaps, and the type of data necessary to support informed management decisions at the land use plan-level. The data requirements for a land use plan-level analysis of the planning area, which constitutes over 11 million acres, is far different and less extensive than what would be utilized for an implementation-level EIS with a well defined proposed action.

Issue Number 138: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Also absent from the EIS is readily available baseline information on wildlife populations and habitats, which would have aided the BLM in undertaking a credible impacts analysis.”

Response:

The adequacy of the baseline information and analysis for the PRMP/FEIS is addressed above in the response to issue 135 and 136. The protester expresses specific concerns relating to baseline information for wildlife populations and habitats. The BLM believes that the baseline data and information for wildlife are appropriate and adequate. Data are provided in both narrative and map form (refer to sections 3.19.1-.3, pp. 3-143 through 3-161 and maps 2-53 through 2-57, map 3-13 and maps 4-3 through 4-6). As discussed in section 3.19.1 (p. 3-143) wildlife habitat is best characterized by the vegetation types discussed in Section 3.15- 3.15.2 (pp.3-101 through 3-112) and depicted in Map 3-10. The water resources are adequately discussed in section 3.17. Forest communities (found in section 3.5), geology and topography (found in section 3.8) and soils (found in section 3.17) are also important contributors to habitat character. The maps included in the document that display big game ranges (Map 2-53 through 2-56) and greater sage-grouse leks (Map 3-13) are intended to provide information necessary for comparison with oil and gas project locations and potential (Map 4-7) as well as the location of other resource use activities. These maps allow a comparison of general land use plan impacts.

Additionally, the BLM utilized wildlife population and habitat data collected for a number of implementation-level oil and gas development project EISs (Atlantic Rim EIS, Desolation Flats EIS, Continental Divide/ Wamsutter II Natural Gas Project EIS); Special Status Plant Species surveys conducted by the Wyoming Natural Diversity Database for the BLM; raptor species breeding and nesting habitat; pygmy rabbit habitat (Regan Plum Data); black-footed ferret habitat (Appendix 14); mountain plover breeding and nesting habitat (Atlantic Rim EIS, Desolation Flats EIS, Continental Divide/ Wamsutter II Natural Gas Project EIS May 2000); Western boreal toad habitat (WG&F data); Laramie toad habitat (Appendix 14); Preble's meadow jumping mouse habitat (Appendix 14); fish habitat; bat usage for both breeding and winter hibernaculums (WGFD data); Breeding Bird Survey Routes for breeding bird surveys (WGFD data); and other wildlife and BLM State Sensitive species for species and associated habitat protection.

The BLM used the most recent and best information available. The BLM continues to gather information on a diversity of wildlife and sensitive species opportunistically in addition to structured surveys, and has conducted extensive literature reviews. As new information is obtained on wildlife species within the planning area, the BLM will incorporate this into its monitoring strategy and consultation efforts (refer to Appendix 10, p. A10-1).

Issue Number 139: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“There never was any scientific basis to assert the effectiveness of merely placing limitations on the timing of drilling and construction activities in crucial winter ranges and parturition areas, without placing any limits on industrialization of the landscape or subsequent human activity during winter throughout the production phase of oil and gas development.”

Issue Number 140: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM implements several mitigation measures that have been proven ineffective by rigorous scientific hypothesis testing (notably sage grouse 1/4 mile NSO [no surface occupancy] plus timing stipulations as well as timing stipulations for mule deer range) and implements others that the best available science suggests will be ineffective (e.g. timing stipulations for other big game crucial winter ranges).”

Issue Number 141: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Clearly, currently proposed mitigation measures are insufficient to protect crucial winter or prevent major impacts to wintering big game herds.”

Issue Number 142: PP-WY-Rawlins-08-92

Individuals: Jim and Carol States

Issue Excerpt Text:

The BLM did not address the disruption of Big-Game Migration to Critical Winter Range.

Response:

Management actions relating to big game species and their winter range are identified in Table 2-1 (refer to pp. 2-106 and 107 of the PRMP/FEIS). Surface disturbing and disruptive activities that are proposed in identified big game migration and transitional ranges will be managed, on a case-by-case basis, to maintain their integrity and function for big game species in these areas (refer to p. 2-106 of the PRMP/FEIS). These actions will minimize or remove potential impacts to migrating big game species from surface disturbing and disruptive activities during critical time periods.

In the Approved Plan, the big game crucial winter range stipulation period will occur from November 15 through April 30 (See Table 2-1, p. 2-106 of the PRMP/FEIS). The WGFD has concurred with this timing restriction period for the protection of big game species during critical periods. In addition, the BLM considers WGFD guidelines and recommendations to reduce impacts where needed (refer to Appendix 15 p. A15-2 of the PRMP/FEIS).

The BLM analyzed short-term and long-term impacts from disruptive activities, including continued human presence (refer to pp. 4-458 to 4-485 of the PRMP/FEIS), to wildlife habitat and mitigates impacts through the use of BMPs (refer to p. 2-106 and Appendix 15 p A15-2 of the PRMP/FEIS). The Approved Plan includes species-specific management actions that will be implemented at the site-specific project stage, as appropriate. These management actions, mitigation measures, and BMPs will be implemented under the Approved Plan until new science is reviewed and any revised bureau-wide guidance is issued for big game crucial winter ranges and parturition areas.

The BMPs will be implemented to further address potentially disruptive activities. These will be adapted to meet the site-specific requirements of a particular project as well as the local environment. The BMPs are incorporated into site-specific project proposals and supported by site-specific environmental analysis. The Rawlins PRMP/FEIS does not mandate BMPs for particular actions at the land use plan level; instead, it provides a range of BMPs that can be applied, where appropriate, at the activity-plan or site-specific level of analysis. The “Methods of Analysis” sections under each resource heading in Chapter 4 of the PRMP/FEIS contain assumptions that appropriate mitigation measures (e.g. BMPs) would be used to reduce the impacts of the various management actions under each alternative. The BMPs and their applications are discussed in Appendix 15 in the PRMP/FEIS.

Issue Number 143: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Walker et al. concluded: Seasonal restrictions on drilling and construction do not address impacts caused by loss of sagebrush and incursion of infrastructure that can affect populations over long periods of time. Regulatory agencies may need to increase spatial restrictions on development; industry may need to rapidly implement more effective mitigation measures, or both, to reduce impacts of CBNG development on sage-grouse populations in the PRB. Attachment 67 at 2. There is no scientifically valid reason to expect the results to be any different in the RMPPA.”

Response:

The adequacy of the protective measures including timing limitation stipulations in the Rawlins PRMP/FEIS is addressed in the response to issues 139-142.

The adequacy of the mitigation measures of unknown effectiveness in the Rawlins PRMP/FEIS is also addressed in the same response. The Proposed Plan states that, “surface disturbing and disruptive activities that would potentially affect the habitat of special status species would be intensively managed on a case-by-case basis” (refer to p. 2-109 of the PRMP/FEIS). This action will allow the BLM to protect special status species, including the greater sage-grouse and sharp-tailed grouse. Intensive management of surface-disturbing and disruptive activities provides the BLM the flexibility to manage habitat for sensitive species and respond to, or modify management as technology and management opportunities change and new BMPs become available for implementation.

Issue Number 144: PP-WY-Rawlins-08-05

Individuals: Val and Ken Hanson

Issue Excerpt Text:

“The measures proposed for sage-grouse and big game crucial habitats and migration corridors across the planning area are completely inadequate...numerous scientific experts have made recommendations that are not represented in the Final EIS.”

Issue Number 145: PP-WY-Rawlins-08-16

Individual: Mary Lou Morrison

Issue Excerpt Text:

“This sacrificially dangerous plan ignores sage grouse, raptor and big game habitat promoting the continuation of meaningless and discredited regulations that have been shown to lead to wildlife decline and/or destruction.”

Issue Number 146: PP-WY-Rawlins-08-20

Individual: Cindy Bonds

Issue Excerpt Text:

“Under the proposed plan, measures to protect the sage grouse and big game crucial habitats and the migration corridors across the planning area are completely inadequate. Numerous scientists and experts have made recommendations that must be implemented in order to avoid further decline of sensitive wildlife. Big game winter ranges and raptor nesting areas get the same inadequate treatment.”

Issue Number 147: PP-WY-Rawlins-08-22

Individual: Judy Peternell

Issue Excerpt Text:

“Under the proposed plan, measures to protect the sage grouse and big game crucial habitats and the migration corridors across the planning area are completely inadequate. Numerous scientists and experts have made recommendations that must be implemented in order to avoid further decline of sensitive wildlife. Big game winter ranges and raptor nesting areas get the same inadequate treatment.”

Issue Number 148: PP-WY-Rawlins-08-39

Individual: Joyce M. Miller

Issue Excerpt Text:

“Measures to protect habitation for sage grouse and big game animal migration corridors are not adequate. Recommendations from expert wildlife managers are not included in the Final EIS.”

Issue Number 149: PP-WY-Rawlins-08-41

Individual: Miriam Dailey

Issue Excerpt Text:

“It [the plan] fails to prevent the industrialization of sage grouse breeding and nesting habitats. Big game winter ranges and raptor nesting areas will also be at risk too.”

Issue Number 150: PP-WY-Rawlins-08-07

Individual: Mary Ann Stout

Issue Excerpt Text:

“The measures proposed for sage-grouse and big game crucial habitats and migration corridors across the planning area are completely inadequate... numerous scientific experts have made recommendations that are not represented in the Final EIS.”

Issue Number 151: PP-WY-Rawlins-08-18

Individuals: Peter and Eva Crane

Issue Excerpt Text:

“the measures proposed for sage grouse and big game crucial habitats and migration corridors across the planning area are completely inadequate... numerous scientific experts have made recommendations that are not represented in the Final EIS.”

Issue Number 152: PP-WY-Rawlins-08-21

Individual: Paul Taylor

Issue Excerpt Text:

“The measures proposed for sage grouse and big game crucial habitats and migration corridors across the planning area are completely inadequate... numerous scientific experts have made recommendations that are not represented in the Final EIS.”

Issue Number 153: PP-WY-Rawlins-08-30

Individual: Martie Crone

Issue Excerpt Text:

“The measures proposed for sage grouse and big game crucial habitats and migration corridors across the planning area are completely inadequate... numerous scientific experts have made recommendations that are not represented in the Final EIS.”

Issue Number 154: PP-WY-Rawlins-08-61

Individual: Ted Manahan

Issue Excerpt Text:

“The measures proposed for sage grouse and big game crucial habitats and migration corridors across the planning area are completely inadequate... numerous scientific experts have made recommendations that are not represented in the Final EIS.”

Issue Number 155: PP-WY-Rawlins-08-64

Individual: Albert Bitner

Issue Excerpt Text:

“The plan fails to prevent industrialization of sage grouse breeding and nesting habitats and instead relies on the same failed timing limitations for construction that have led to major population declines...Big game winter ranges and raptor nesting areas get the same inadequate treatment.”

Issue Number 156: PP-WY-Rawlins-08-71

Individual: Mary G. Forrester

Issue Excerpt Text:

“The serious declines of sensitive wildlife are not considered in the final EIS, nor are the recommendations of numerous scientific experts.”

Issue Number 157: PP-WY-Rawlins-08-72

Individual: Mary Beth Baptiste

Issue Excerpt Text:

“While the FEIS allows protection in a few scattered wildlife areas, the plan fails to prevent full-scale industrial activity in critical wildlife habitats such as sage grouse and raptor nesting habitat and big game habitat. Stronger wildlife protections must be implemented, as per the numerous scientific recommendations that are ignored in the final EIS.”

Issue Number 158: PP-WY-Rawlins-08-76

Individual: Bob Strayer

Issue Excerpt Text:

“Stronger wildlife protections must be considered and implemented. There is no shortage of scientific information regarding these matters, and recommendations, mostly coming from experts outside the BLM.”

Issue Number 159: PP-WY-Rawlins-08-79

Individuals: Aurora, Carlos, Cormac and Martha Martinez del Rio

Issue Excerpt Text:

“The final plan’s inadequate consideration of its impact on Columbian sharp-tailed grouse, sage grouse and big game. It is inconceivable to us that your agency continues to pursue a course that fates this area to industrial destruction, in the face of evidence of the severe effects of unbridled industrial development on natural resources.”

Issue Number 160: PP-WY-Rawlins-08-83

Individual: Bertha Ward

Issue Excerpt Text:

“It [the plan] does not protect sage grouse breeding and nesting habitats...big game winter ranges and raptor nesting is also inadequately protected.”

Issue Number 161: PP-WY-Rawlins-08-95m

Individual: Jeanne Leske

Issue Excerpt Text:

“Stronger wildlife protections should be considered and implemented. We have learned important information about the impacts of oil and gas development on sage-grouse and mule deer from recent research studies, but that new information is not represented in the proposed plan....I am concerned that if we continue to rely on ineffective mitigation measures that fail to conserve sage-grouse and other wildlife we will do just that.”

Issue Number 162: PP-WY-Rawlins-08-95p

Individual: Chuck Neal

Issue Excerpt Text:

“Stronger wildlife protections should be considered and implemented. We have learned important information about the impacts of oil and gas development on sage-grouse and mule deer from recent research studies, but that new information is not represented in the proposed plan....I am concerned that if we continue to rely on ineffective mitigation measures that fail to conserve sage-grouse and other wildlife we will do just that.”

Issue Number 163: PP-WY-Rawlins-08-95s

Individual: Jack Runnels

Issue Excerpt Text:

“Stronger wildlife protections should be considered and implemented. We have learned important information about the impacts of oil and gas development on sage-grouse and mule deer from recent research studies, but that new information is not represented in the proposed plan....I am concerned that if we continue to rely on ineffective mitigation measures that fail to conserve sage-grouse and other wildlife we will do just that.”

Issue Number 164: PP-WY-Rawlins-08-95w

Individual: Zentura

Issue Excerpt Text:

“Stronger wildlife protections should be considered and implemented. We have learned important information about the impacts of oil and gas development on sage-grouse and mule deer from recent research studies, but that new information is not represented in the proposed plan....I am concerned that if we continue to rely on ineffective mitigation measures that fail to conserve sage-grouse and other wildlife we will do just that.”

Issue Number 165: PP-WY-Rawlins-08-32

Individual: Barbara Parsons

Issue Excerpt Text:

“BLM has followed a policy of allowing multiple uses, especially oil and gas, on nearly every square inch of public land. With this proposed density in prime habitat sage-grouse, listing will occur. Phased development and directional drilling, which would lessen the impacts, are not required in the plan. And though there are stipulations in the plan, they don't meet the recommendations of many sage-grouse experts.”

Issue Number 166: PP-WY-Rawlins-08-51

Individual: Tova Woyciechowicz

Issue Excerpt Text:

“The measures proposed for sage grouse and big game crucial habitats and migration corridors across the planning area are inadequate. Scientific research has increasingly demonstrated that allowing oil and gas development to occur subject only to limitations on the time of year when drilling wells can occur is ineffective in protecting sage grouse and big game...the BLM has failed to ensure the best available science is used and put into place, as it is required to do.”

Issue Number 167: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“With respect to sage grouse, the provisions of Alternative 3 should be made applicable to the Rawlins RMP. . . . Furthermore, the scientific literature has made it very clear that the existing standard suite of protections (which are generally all that would apply under the proposed Rawlins RMP) are insufficient to ensure conservation of the sage grouse.”

Issue Number 168: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“The proposed plan does not adequately protect big game, avian, and fish habitats, in violation of FLPMA and BLM’s sensitive species obligations. The EIS, acknowledging the limiting effect of winter range for big game populations, predicts adverse impacts to at least 33% of elk crucial winter range, 44% of mule deer crucial winter range, 63% of available pronghorn crucial winter range from oil and gas development, but fails to either adequately disclose the effects on this habitat loss on big game populations and recreation opportunity, or to employ adequate measures to mitigate these impacts.”

Issue Number 169: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“NEPA documents must address ‘responsible opposing views,’ in effect, credible scientific and professional opinions that diverge from agency views, in weighing the merits of the proposed actions and alternatives in a NEPA document... This is particularly relevant to the BLM’s assertions about the effectiveness of mitigation measures for crucial sage grouse and big game habitats, assertions which are contradicted by scientific hypothesis testing.”

Issue Number 170: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM has failed to account for a vast body of science that is readily available to the agency and yet which has apparently not been considered during the Final EIS... The BLM has failed to consider the following key studies on sage grouse... [and failed to] examine the impacts of oil and gas development on big game in similar habitats.”

Issue Number 171: PP-WY-Rawlins-08-93

Individual: Dwayne M. Meadows

Issue Excerpt Text:

“The protections for wildlife offered are not using the most up-to-date science and information available on the affects of oil and gas development on wildlife, particularly sage grouse and mule deer.”

Issue Number 172: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“The Wyoming Game and Fish Department [WFGD], with the endorsement of the Wyoming Game and Fish Commission, has adopted its ‘Recommendations for Development of Oil and Gas Resources within Crucial and Important Wildlife Habitats’ policy. Among many other things, this policy recognizes the ineffectiveness of winter drilling timing limitation stipulations standing alone, which is all that the BLM generally proposes for the protection of big game crucial winter ranges in the Rawlins RMP. . . . Clearly the standard stipulation that limits the period of time when wells in crucial winter range can be drilled is not in compliance with the State of Wyoming’s policies and plans regarding the protection of wildlife. . . . The scientific literature--especially the reports of Hall Sawyer from the Pinedale Anticline which are cited in the Rawlins RMP-- makes it clear that it is all but guaranteed that there will be significant loss of habitat function if significant exploration or development occurs on leaseholds subject just to the winter drilling limitation.”

Response:

To the extent that these protesters raise the issue of adequacy of protective measures, the BLM responds:

The BLM's Sensitive Species Policy dictates that BLM actions do not contribute to the need to designate certain sensitive species including the Greater sage-grouse as threatened or endangered under the Endangered Species Act (BLM Manual 6840.06 (rel. 6-121(1/19/01))). Because the RMP does not authorize any specific activities, impacts to sage-grouse populations depend upon how future activities are implemented. Future activities conducted pursuant to the RMP will be subject to an appropriate level of additional site specific environmental analysis, including an evaluation of appropriate mitigation measures. The BLM believes that with the application of mitigation measures, future actions would not be likely to lead to the sage-grouse being listed as threatened or endangered.

The BLM is required to manage fish and wildlife habitats in coordination and cooperation with the WGFD and continues to manage species habitat (i.e., greater sage-grouse) listed on the BLM Wyoming State Director's Sensitive Species List in accordance with BLM Manual 6840 (refer to p. A10-1). Efforts to map suitable nesting habitat, which may extend beyond the current accepted two-mile buffer will provide protection for a greater percentage of suitable nesting habitat and nesting sage-grouse while allowing development to occur. The expansion of the two-mile nesting buffer is responsive to current research by extending protection to all identified nesting habitat (refer to p. 2-110). The BLM management includes protection of sage grouse during multiple use activities as well as habitat enhancement or restoration. A variety of local conservation and habitat enhancement efforts are ongoing in the planning area. Efforts involve the WGFD, regional sage-grouse working groups and the Governor's Sage Grouse Implementation Team.

Management of greater sage-grouse in the Rawlins RMP planning area is guided by existing area-wide and statewide guidance including the BLM National Sage-Grouse Habitat Conservation Strategy, the Wyoming Greater Sage-Grouse Conservation Plan (June 24, 2003), Wyoming (WY) IM-2004-057 and WY IM-030-2006-001. These documents are available on the BLM's Rawlins Field Office website and/or at the Field Office for public review.

Table 2-1, pages 2-106 through 2-107 contains protective measures for big game species, including the designation of crucial winter range, parturition habitat, migration/transition ranges, and habitat where there may be conflicts between livestock management and big game species. In addition, Appendix 15 of the PRMP/FEIS, pp. A15 -1 contains additional BMPs utilized to reduce and or remove potential impacts to big game species from surface disturbing and disruptive activities.

Further, the PRMP/FEIS analyzes how development would continue to impact big game species and greater sage-grouse through loss, alteration, and fragmentation of habitat and displacement of wildlife (refer to p.4-472). Spatial and temporal restrictions protect habitat during sensitive time periods. As discussed above, the BLM has established BMPs to minimize impacts to wildlife and habitat. The Rawlins Field Office will assess the effectiveness of these BMPs by conducting monitoring and gathering and evaluating data. The PRMP/FEIS includes other

species-specific management actions that will be implemented at the site-specific project stage, as appropriate.

To the extent that these protests raise the issue of the inadequacy of mitigation measures, the BLM responds:

This issue is addressed in the response to issues 139-142. It is not possible to anticipate specific projects and specific wildlife mitigation needs that may occur during the life of the plan. Accordingly, mitigation will be considered if and when specific projects are proposed. Special requirements to alleviate wildlife impacts would be included on a case-by-case basis in future use authorizations within the scope of the BLM's authority. The BLM has worked closely with the WGFD throughout the development of this RMP and will continue that close working relationship in the development of specific projects in the future.

To the extent that these protests raise the issue of the BLM failing to utilize available scientific information, the BLM responds:

The PRMP/FEIS utilizes Connelly et al. 2000, Holloran 2005, and others, to develop mitigation measures. It accounts for local trends in populations and habitat of sage-grouse and establishes BMPs as additional protective measures for the greater sage-grouse. These BMPs include sage-grouse lek buffer restrictions and seasonal restrictions (refer to Appendix 15 of the PRMP/FEIS, pp. A15 -1 through A15-2).

The National Strategy calls for the BLM to work in conjunction with the WGFD to ensure that appropriate management actions are identified and implemented to conserve sage-grouse and sagebrush habitat. According to the National Strategy, the BLM will also use the best available scientific information, and other relevant information, to develop these conservation efforts. The BLM will also continue to adjust and adapt its management actions as it evaluates new information, science, and monitoring results over time (DOI-BLM 2004). The Wyoming Greater Sage-Grouse Conservation Plan (June 24, 2003) recommends surface disturbance or occupancy restrictions within ¼ mile of known active lek sites, and, like the PRMP/FEIS, draws upon the work of Connelly et al. 2000. The Wyoming BLM Instruction Memorandum 2004-057, Statement of Policy Regarding Sage-Grouse Management Definitions, and Use of Protective Stipulations, and Conditions of Approval supports the restriction on development within ¼ mile distance from leks.

In addition, the two-mile nesting buffer provides protection to all identified nesting habitat (refer to p. 2-110). The BLM management includes protection of sage grouse during multiple use activities as well as habitat enhancement or restoration. A variety of local conservation and habitat enhancement efforts are ongoing in the planning area. Efforts involve the WGFD, regional sage-grouse working groups, and the Governor's Sage Grouse Implementation Team.

Lastly, the PRMP/FEIS includes species-specific management actions that will be implemented at the site-specific project stage, as appropriate. These management actions and mitigation measures as well as BMPs, will be implemented under the PRMP/FEIS until new science is reviewed and/or new BLM-wide guidance is issued for sage-grouse, or other species. Any

activity the BLM approves at the site-specific stage must be consistent with current laws regulations and policy at that time, unless conditions at the site warrant a greater mitigation distance or extent. The ongoing sage-grouse mitigation review process, involving both governmental agencies and the science community, including the FWS, is currently reviewing the existing mitigation standards for sage-grouse. Recommendations may be made as a result of this effort and will be addressed by the BLM as necessary.

To the extent that these protests raise the issue of the BLM specific actions such as directional drilling, the BLM responds:

The Approved RMP implements no specific actions or projects. While it is true that the Approved RMP imposes no requirement for directional drilling, these operational requirements can and will be considered at the project implementation level where appropriate, would be subject to additional NEPA analysis, and would provide additional opportunities for public involvement.

Issue Number 173: PP-WY-Rawlins-08-74

Individuals: Dan and Janet W. Blair

Issue Excerpt Text:

“The same inadequate and unenforceable treatment is afforded to big game winter ranges, migratory corridors, and raptor nesting areas... numerous scientific experts have made recommendations that are not represented in the FEIS.”

Issue Number 174: PP-WY-Rawlins-08-31

Individual: Mary Gay

Issue Excerpt Text:

“This proposed plan atavistically ignores not only the several recommendations put forth by scientific experts, but also the many voices representing various sections of the population who long to see restraints placed on the exploitation of our natural resources.”

Issue Number 175: PP-WY-Rawlins-08-38

Individual: Sigrid Mayer

Issue Excerpt Text:

“The big game winter ranges are relying on timing limitations that have already proved inadequate in the Powder River Basin and Upper Green River Valley, where major population declines have taken place due to drilling. The same holds true for the raptor nesting places in the area.”

Issue Number 176: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“The BLM draws conclusions with regard to environmental consequences (Ch 4) that are invalid because the management actions described as protective measures in these sections of the FEIS are not included in the Proposed Plan. Specifically protective management actions attributed to [special designations] / [management areas] are implemented because, 1) few [special designations]/[management areas] are designated, and 2) for those that are designated, protective management actions ... are not included.”

Issue Number 177: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“Protective management actions proposed by the BLM, specifically monitoring and mitigation, depend on information that is not available. Thus the FEIS draws conclusions regarding environmental impacts that are not scientifically supported.”

Response:

To the extent this issue pertains to the adequacy of protective measures, see the BLM’s response to issues 144-172. Further, environmental conditions in the Rawlins RMP planning area are not necessarily the same as that found in either the Powder River Basin or the Upper Green River Valley. Therefore, conclusions regarding the relative adequacy or inadequacy of wildlife timing stipulations for the Rawlins Field Office should not be compared to results and conclusions from other areas.

To the extent these issues pertain to BLM ignoring scientific evidence, also see the BLM’s response to issues 144-172.

To the extent these issues pertain to the adjustment of management through monitoring for Special Status Plant Species, or relying on adaptive management to revise and update protective measures, the BLM responds:

Since the BLM authorizes no specific projects or actions in the PRMP/FEIS, the BLM believes that it is correct and appropriate to consider monitoring for unspecified and unknown impacts resulting from planning allocation decisions, and to contemplate adjusting management accordingly.

Further, on page 2-93 under Management Objectives within the Proposed Plan, the BLM states that it will maintain, restore, and enhance T&E plant species, BLM State Sensitive Species (Special Status Plant Species), and unique plant communities. On page 2-94 the BLM states that in unique plant communities, such as the Muddy Gap Cushion Plant Community area, notices will be required for locatable mineral exploration and development (except casual use) consistent with regulations.

Finally, as more information is gathered on Special Status Plant Species in the future, the BLM will continue to implement the protective measures identified in Appendix 17 (refer to pp. A17-7 and A17-10) and develop new protective measures as appropriate. Continued inventory efforts and analysis of local environmental conditions will identify the site specific needs to sustain the populations. As stated in Appendix 24 in the PRMP/FEIS, “As unique plant communities, such as the sand hills bitterbrush/silver sagebrush, cushion plant, and chain lakes alkaline wetland communities, are identified, protection measures are developed” (p. A24-1). Blowout penstemon and Gibben’s beardtongue are also currently undergoing extensive inventory and research. The BLM plans to continue to acquire the data and information on the remaining Special Status Plant Species, and to adjust management where appropriate and consistent with the management decision to protect, restore and enhance Special Status Plant Species.

Issue Number 179: PP-WY-Rawlins-08-14
Organization: Western Watersheds Project

Issue Excerpt Text:

“The NEPA documents for the RMP failed to address the impacts of livestock grazing (past, current and future) on sage-grouse, pygmy rabbit, and other sage brush and riparian dependent species. This violates NEPA.”

Response:

The BLM believes it complied fully with NEPA in this regard. The impacts from livestock grazing on wildlife are found in section 4.19.1, Impacts Common to All Alternatives, and section 4.19.5, Impacts Under Alternative 4: Proposed Plan (refer to pp. 4-454 through 4-455, and 4-482 through 4-483), and includes the assessment that, “Appropriate levels of livestock forage use will potentially benefit wildlife habitat, [Threatened and Endangered] T&E, candidate, and proposed sensitive plant populations” (p. 4-454). This includes habitats for greater sage-grouse, pygmy rabbits, and other sagebrush and riparian dependent species. Further, livestock grazing management will emphasize achieving Desired Plant Community objectives, which will incorporate consideration of wildlife and fish habitat requirements to enhance viability of fish and wildlife populations.

In the first eight years of evaluating Standards for Healthy Rangelands, 396 allotments (3.3 million acres of public land) were assessed, and 82 percent meet the standards. Only 73 allotments (approximately 18 percent) failed to meet one or more standards due to livestock management. The Standards include consideration of the effects from livestock management on all wildlife habitat and wildlife species, which includes protecting habitat for a diversity of species, including the greater sage-grouse, pygmy rabbit, and other sagebrush and riparian dependent species (refer to p. 3-29).

Issue Number 180: PP-WY-Rawlins-08-89
Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The Biological Assessment suffers from a lack of current [baseline] data [on the black-footed ferret and the Canada lynx].”

Issue Number 181: PP-WY-Rawlins-08-89
Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“FEIS at BA-48. These measures will apply in Lynx Analysis Units, but it is unclear that all important lynx connectivity habitat which involves BLM lands will be included in these [Lynx Analysis Units].”

Response:

The BLM has proposed and considered specific management prescriptions to ensure the continued habitat protection for lynx, while allowing other resource uses and activities to continue within the planning area. Although there are currently no designated Lynx Analysis Units identified on BLM lands within the Rawlins planning area, the BLM is committed to

providing the needed protections for these habitats, including connectivity habitat between Lynx Analysis Units. Conservation measures to ensure that key linkage areas which may be important to providing landscape connectivity within and between geographic areas across all ownerships are identified using the best available science as well as ensuring that habitat connectivity within and between Lynx Analysis Units is maintained (refer to Appendix 14, pp. A1-8). The BLM will include appropriate analysis of any implementation-level project proposal in compliance with the NEPA and other laws such as the ESA.

The adequacy of the baseline information utilized for the Rawlins PRMP/FEIS is also addressed above in the BLM's response to protest issues 135-137. The January 16, 2007, transmittal letter from the FWS for the Biological Opinion (BO) states that the FWS concurs with the BLM's determinations that "activities described in the Proposed Action will not likely adversely affect the Canada lynx" (refer to Appendix 14, p. iv). This concurrence is based on the BLM's review of suitable lynx habitat within the planning area. In addition, the BLM Biological Assessment has provided adequate data to allow the FWS to respond in the BO with a "no effect, are not likely to adversely affect, and not likely to jeopardize" determination for the black-footed ferret (refer to Appendix 14, iii-iv).

Issue Number 182: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

"Given the possibility of listing of this [prairie dog] species, the BLM should take strong proactive management steps to remove this species from its sensitive species list, not to mention preventing listing under the ESA [Endangered Species Act]. This is required by the BLM's sensitive species manual and the other legal provisions discussed above."

Response:

Proactive and cooperative management for sensitive species is consistent with BLM Manual 6840.22C (Agreements, Assessments, and Cooperative Strategies for Conservation) and is carried out in accordance with guidelines jointly developed by a Federal interagency team (the BLM, National Park Service, Forest Service, FWS and in subsequent coordination with WGFD biologists). The BLM will continue to manage for biological integrity and habitat function of terrestrial and aquatic ecosystems to sustain and optimize distribution and abundance of all native, desirable non-native, and Special Status fish and wildlife species, including prairie dogs (refer to the management goal presented on PRMP/FEIS, p. 2-103, General Wildlife, Management Goals Common to All Alternatives).

One of the Wildlife and Fisheries Management Objectives in the PRMP/FEIS states that, "the BLM will maintain, restore, or enhance designated BLM State Sensitive Species habitat in order to prevent listing under the ESA, in coordination and consultation with other local, state, and federal agencies and consistent with other agency plans, policies, and agreements" (refer to p. 2-103). In addition, one of the management actions for species listed on the BLM Wyoming State Director's Sensitive Species List states that, "surface disturbing and disruptive activities that would potentially affect the habitat of special status species would be intensively managed on a case-by-case basis" (refer to p. 2-109). Such management will allow the BLM to protect Special

Status Species, including prairie dogs (refer to pp. 2-109 and 2-110 and Appendix 1, p. A1-5). BMPs found in Appendix 15 (refer to p. A15-2) will be incorporated into project-specific or site-specific project proposals following adequate NEPA analysis. Intensive management of surface-disturbing and disruptive activities provides the BLM the flexibility to manage habitat for sensitive species and respond to or modify management as technology and management opportunities change and as new BMPs become available for implementation. These measures are adequate to reduce potential environmental consequences and are innovative, dynamic, and economically feasible mitigation measures that are applied on a site-specific basis to reduce, prevent, or avoid adverse environmental impacts.

Issue Number 183: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM’s response to these concerns [jeopardizing fish populations] is very confusing (id.), seeming to indicate that a change in management for [Upper Muddy Creek/Grizzly WHMA] is warranted. It does not appear that an appropriate change, outlined in the BLM’s response to comments, was implemented.”

Response:

The BLM provided three recommendations in response to the concern of jeopardizing fish populations. They include closure of the WHMA to future oil and gas leasing; size consideration on impoundments within the upper Muddy Creek Watershed/Grizzly WHMA; and no surface occupancy (NSO) stipulations on oil and gas leasing. Closure of lands in certain areas to oil and gas leasing was included under the Proposed Plan (refer to p. 2-79, Table 2-1). Consideration of the construction of new reservoirs was addressed and no new reservoirs over one acre-foot will be allowed under the Approved Plan within the Upper Muddy Creek Watershed/Grizzly WHMA (refer to p. 2-100, Table 2-1). These requirements are clarified in the ROD, section 1.1.1.2. Almost all of the proposed ACEC has already been leased for oil and gas development; therefore new NSO stipulations were not considered under the Proposed Plan. However, BMPs, mitigation measures, intensive management requirements, and conditions of approval to meet the goals of the Upper Muddy Creek Watershed/Grizzly WHMA will be implemented where applicable (refer to Appendix 13, 15, and Table 2-1).

Issue Number 184: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM fails to provide mitigation measures under any alternative that would reduce or eliminate such [depletions to the Colorado River System] water depletions.”

Issue Number 185: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM has failed to consider the implementation of mitigation measures sufficiently effective to prevent impacts to the roundtail chub, flannelmouth sucker, and bluehead sucker.”

Response:

The adequacy of the mitigation measures in the Rawlins PRMP/FEIS is also addressed above in responses to protest issues 144-172. The protester expresses specific concerns relating to water depletions in the Colorado River System. The State of Wyoming has primacy over water rights and the BLM can only make decisions within their jurisdictional boundaries. Therefore, any mitigation other than payment for depletions is outside the jurisdiction of the BLM.

However, the Rawlins PRMP/FEIS identifies in the Biological Assessment the BMPs and species conservation measures for downstream Colorado River T&E species (see pp. 82-90 of the BA). The goal of the WHMA is to “manage habitat for the Colorado River fish species unique to the Muddy Creek watershed. The BMPs, mitigation measures, and conditions of approval to meet the goals and intensive management requirements of the upper Muddy Creek Watershed/Grizzly WHMA would be implemented to protect these species” (Appendix 13, 15, and Table 2-1, pp. 2-78 through 2-81). In addition, closure to future oil and gas leasing was included in the FEIS under the Proposed Plan (Table 2-1, page 2-79). Alternatives that would reduce or eliminate depletions to the Colorado River system will be considered on a case-by-case basis through the site-specific NEPA processes. The BLM also actively participates in the range-wide conservation agreement and strategy for roundtail chub, bluehead sucker, and flannelmouth sucker (Utah Department of Natural Resources 2006) and will continue to implement recovery and management activities that benefit these sensitive fish species (refer to pp. 4-322 and 4-471). Consultation with the FWS for water depletions as outlined by the Colorado River Endangered Fish Recovery Program will also be completed.

Issue Number 186: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The FEIS [Final Environmental Impact Statement] limit on impoundments cannot be supported as necessary to protect endangered fish. Tributaries to the Colorado River system must conform to the in stream flow needs for endangered fish but no evidence supports the need to limit impoundments.”

Response:

The adequacy of analysis regarding a restriction on water diversion size and the need to limit water diversions is addressed in the BLM’s responses to *Water Resources* portion of this report. The requirements are clarified in the ROD, section 1.1.1.2.

Issue Number 187: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM does not possess detailed knowledge about the direct and cumulative effects of pesticides on Wyoming toads.... The BLM needs to provide greater protection by forbidding pesticide... No Surface Occupancy management for new toad release sites (FEIS at BA-61) is clearly warranted and a wise management action”

Response:

The adequacy of the direct and cumulative effects and impact analysis for the PRMP/FEIS is addressed above. The protester expresses specific concerns relating to the effects of pesticides on Wyoming toads. Any pesticide approved for use on public land has been subjected to rigorous evaluation and testing prior to approval. “Many classes of herbicides exist, and all vary in action, selectivity, and persistence. However, relatively few are approved for use in broadcast-scale vegetation treatments on public lands...Noxious and invasive weeds would be treated in accordance with the Rawlins Field Office Biological Noxious Weed Control Environmental Assessment (EA)(WY-037-EA6-123)(refer to p. A19-3), Chemical Noxious Weed Control and Commercial Site Vegetation Control EA (WY-037-EA6-122)(refer to p. A19-3), and Vegetation Treatment on BLM Lands in Thirteen Western States [programmatic EIS, 2007]” (refer to p. A19-4). The BLM will conform to these programmatic standards in the implementation of the Rawlins RMP.

Pesticide applications and biological control agents will be allowed within known T&E and Special Status Species habitat on a case-by-case basis (refer to Appendix 14, Programmatic Biological Opinion for the Wyoming Bureau of Land Management Rawlins Resource Management Plan and Appendix 1, Conservation Measures for the Rawlins Resource Management Plan). The BLM will work with the U.S. Animal and Plant Health Services (APHIS) and the FWS to select a pesticide and method of application that will most effectively manage the infestation and least affect the species, including the Wyoming toad. At this time, the majority of toad release sites are located on private lands; however, in the event the FWS will release toads on BLM lands, then consultation will occur (refer to p. A14-100).

Issue Number 188: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The FEIS fails to take a hard look at impacts to nesting raptors.”

Response:

Compliance with NEPA’s requirement to take a ‘hard look’ at impacts in the planning area is addressed above; see response to protest issue 9. The BLM analyzed potential impacts to breeding and nesting raptors within the planning area throughout the PRMP/FEIS (refer to pp. 2-104 through 2-105, Table 2-1; pp. 2-161 through 2-162, Table 2-10; and pp. 4-470, 4-463, and 4-485). The BLM discussed measures that restrict surface disturbing activities during critical time periods. The analysis in Chapter 4 for raptors is sufficient for the level of detail required for the PRMP/FEIS. In addition, the Rawlins field office completes site specific analysis at the project proposal level. Studies completed for associated species within and outside the Rawlins field office support protection measures for nesting raptors. The management decisions for raptors included in the PRMP will be made pursuant to the analysis outlined above.

Specifically, the Rawlins Field Office has established and refined appropriate spatial and temporal buffers meeting the need of nesting raptors and reducing and/or elimination of impacts to nesting pairs (refer to Table 2-1, pp. 2-104 and 2-105). The monitoring program, from field office data collections, show that the proposed temporal and spatial buffers are affective at protecting raptors during critical life stages. Comparison of ferruginous hawk productivity have

shown little to no difference within areas of development as compared to areas with little disturbance. The Rawlins PRMP/FEIS has taken an adequate ‘hard look’ at impacts to raptor nesting.

General Special Status Species Issues

Issue Number 189: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The FEIS provides woefully inadequate baseline information and analysis of impacts for many BLM Sensitive species...it [Biological Assessment] does not address BLM Sensitive Species at all. Many BLM Sensitive Species found in the Rawlins Field Office (including Baird's sparrow, black-tailed prairie dog, boreal toad, Brewer's sparrow, ferruginous hawk, Great Basin spadefoot, long-billed curlew, mountain plover, sage sparrow, sage thrasher, pygmy rabbit, swift fox, white-tailed prairie dog, and several bat species) have species assessments compiled by Wyoming Natural Diversity Database and listed on the BLM statewide website, but the information in these assessments, although clearly available to the BLM, inform neither the baseline information nor impacts analysis in the Rawlins RMP/EIS. They are not even cited in the EIS.”

Response:

The PRMP/FEIS utilized the best available baseline information for all sensitive species for its description of the affected environment (section 3.19.3, pp. 3-155 through 3-161) and for the description of potential impacts to sensitive wildlife and fish species (section 4.19, pp. 4-450 through 4-485). The adequacy of baseline information is also addressed above in the BLM’s response to protest issues 135 and 136.

Certain information in this regard may be limited in some cases due to a lack of available information specific to the planning area. The BLM will complete site-specific field inspections for all proposed projects and identifies species habitat, including T&E and BLM State sensitive species. This is critical, since species are added and/or are deleted from BLM or State sensitive species lists throughout a span of years, and it is critical that the BLM remain up to date on which species and their associated habitat have the potential to occur at the project site. Several additional statewide programmatic Biological Assessments are currently being developed within the State. These plans will be used to identify and implement biologically meaningful conservation strategies for Special Status Species that consider current animal distributions, trends, and habitat conditions.

The Biological Assessment process is not required to address any State or Federal sensitive species. The BLM may request that the BLM Biological Assessment (BA)/ Programmatic Biological Opinion for the Wyoming Bureau of Land Management Rawlins Resource Management Plan include the consideration of State or Federal sensitive species, however, the BLM is not required to do so. The FWS has no obligation to make effect determinations for State or Federal sensitive species.

Issue Number 190: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“The BLM Manual 6840 ("Manual"), governing Special Status Species Management, sets heightened internal BLM management requirements for special status species, which includes those species, such as the greater sage-grouse designated by BLM State Directors as "sensitive species." The Manual requires "conservation" of sensitive species, where "conservation" is defined as "the use of all methods and procedures which are necessary to improve the condition of special status species and their habitats to a point where their special status recognition is no longer warranted." Manual at 6840.01 (Exh. 8). Based on current sage-grouse research, the Rawlins FEIS and Proposed RMP fail to use all such methods and procedures.”

Issue Number 191: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“[T]he Manual sets the minimum level of protection for BLM sensitive species at that of candidate species. To protect candidate species, the BLM is required to implement management plans that conserve candidate species and their habitats and to ensure that actions authorized, funded, or carried out by the BLM do not contribute to the need for the species to become listed. Manual at 12.”

Response:

The protections mandated by law, regulation, and policy for special status species, supplemented by the management actions in the PRMP/FEIS, will adequately protect special status species in the Rawlins planning area.

The purpose of this planning process is to propose and consider specific management prescriptions to ensure the continued habitat protection for these species, while allowing other resource uses and activities to continue within the planning area. With the PRMP/FEIS, the BLM is committed to providing the needed protections for these habitats while upholding the principles of multiple use and sustainable yield put forth in the FLPMA; protecting existing land use rights; and complying with applicable laws, regulations, executive orders, and the BLM Manuals (such as BLM Manual 6840).

At the project-specific level, plans will be implemented to protect and conserve special status species and their habitats (BLM sensitive species). In addition, project-level planning will ensure that actions carried out do not contribute to species being listed. This is emphasized in Table 2-1 under Wildlife and Fisheries Management Objectives in the PRMP/FEIS which states that, “[the BLM will] maintain, restore, or enhance designated BLM State Sensitive Species habitat in order to prevent listing under the ESA, in coordination and consultation with other local, state, and federal agencies and consistent with other agency plans, policies, and agreements” (refer to p. 2-103 of the PRMP/FEIS).

Issue Number 192: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“The FEIS fails to make the necessary analysis required under its sensitive species rules: what does this habitat loss and behavioral disturbance, combined with other factors affecting the species, mean for its

long-term outlook and prospects for avoiding listing as threatened or endangered? The FEIS's analysis is deficient...BLM should have conducted a detailed, scientifically credible, analysis for greater sage grouse.”

Response:

The BLM Manual 6840 states that land use plans shall be sufficiently detailed to identify and resolve significant land use conflicts with special status species without deferring conflict resolution to implementation-level planning (refer to BLM Manual 6840-Special Status Species Management, Conservation of Species other than under the ESA). The PRMP/FEIS provides sufficient detail and guidance to avoid conflicts with special status species at the implementation planning level. The PRMP/FEIS is consistent with BLM’s policy to conserve all special status species and the BLM obtained and used the best available information deemed necessary to evaluate the condition of special status species.

Grouse – Special Status Species Issues

Issue Number 193: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“BLM repeatedly contends that “[a]round known lek sites, the [BLM] National Sage Grouse Strategy uses 1/4-mile NSO as the best available scientific information available to protect nesting grouse.” See, e.g., FEIS at A38-350. This response is inadequate for two reasons. First, we can find nothing in the highly-general 2004 BLM National Sage Grouse Strategy that provides any rationale or cites any study supporting the validity of a 1/4-mile NSO. Second, the fact that this buffer may once have been employed in the absence of concrete scientific data does not excuse BLM, under the National Environmental Policy Act (NEPA), from employing the considerable and persuasive scientific data available since 2004 that the 0.25-mile buffer is not sufficient to protect active leks and breeding populations of sage-grouse.”

Issue Number 194: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“[The FEIS fails] to take a hard look at impacts to sage grouse.”

Issue Number 195:

Individuals: Jim and Carol States

Issue Excerpt Text:

“Further Damage to Sage Grouse in One of Their Last Places of Refuge. . . . The BLM claims that the Rawlins RMP has been based upon the best available science, yet no allowance for these scientific findings is made in the recommendations for mineral development in the Rawlins RMP. This alone provides sufficient grounds for a thorough revision of the RMP.”

Response:

As noted above, management of greater sage-grouse in the Rawlins planning area is guided by existing national, statewide, and local BLM policy including the BLM National Sage-Grouse Habitat Conservation Strategy (National Strategy), the Wyoming Greater Sage-Grouse Conservation Plan (June 24, 2003), WY-IM-2004-057 and WY-IM-030-2006-001. These documents are available on line and/or are available at the BLM Rawlins Field Office for public

review. The National Strategy references Connelly et al (2000) and focuses on a cooperative integrated approach (coordination with the WGFD) to ensure that appropriate actions are identified at the appropriate scale for conserving greater sage-grouse and sagebrush habitat, that the BLM use the best available scientific and other relevant information to develop these conservation efforts, and the BLM will continue to adjust and adapt as new information, science and monitoring results evaluate effectiveness over time (DOI, BLM, 2004, *Bureau of Land Management National Sage-Grouse Habitat Conservation Strategy*). The WGFD recommends no surface disturbance or occupancy on or within ¼ mile of known active lek sites and also references Connelly et al 2000 (Wyoming Game and Fish Department, 2003, *Wyoming Greater-Sage Grouse Conservation Plan*). The Wyoming BLM IM 2004-057, *Statement of Policy Regarding Sage-Grouse Management Definitions, and Use of Protective Stipulations, and Conditions of Approval (COAs)*, supports the restriction on development within 1/4 mile distance from leks. The PRMP/FEIS utilizes Connelly et al 2000, Holloran 2005, and others to develop mitigation; takes into account local trends in populations and habitat of sage-grouse; and establishes BMPs as additional protective measures for the greater sage-grouse - as well as the sage-grouse lek buffer and seasonal restrictions (refer to Appendix 15 of the PRMP/FEIS, pp. A15-1 through A15-2).

The BLM is required to follow existing laws, regulations, and policies including, but not limited to, the Mineral Leasing Act of 1920, the Domestic Minerals Program Extension Act of 1953, the Mining and Minerals Policy Act of 1970, the Energy Policy Act of 2005 and the Energy, Independence and Security Act of 2007. These acts guide the BLM in managing energy and mineral resources on public lands and use planning and multiple-use management decisions which will recognize that energy and mineral development can occur concurrently or sequentially with other resource uses, providing that appropriate stipulations or conditions of approval are incorporated into authorizations to prevent unnecessary or undue degradation, reduce environmental impacts, and prevent a jeopardy opinion.

Connelly et al (2000) states that although mining and energy development are common activities throughout the range of sage grouse, quantitative data on long-term effects of those activities on sage grouse are limited. Thus, these activities should be discouraged in breeding habitats, but when they are unavoidable, restoration efforts should follow procedures outlines in these guidelines (referencing Connelly et al 2000). A variety of local conservation and habitat enhancement efforts are ongoing in the planning area. Efforts involve the Wyoming Game and Fish Department, regional sage-grouse working groups and the Governor's Sage Grouse Implementation Team. New research and science will undoubtedly improve the understanding of industrial development/sage grouse relationships and influence the exchange of information and adjustment/refinement of BLM policy. The BLM will incorporate that new policy into management strategies and land use plans at all levels of the organization.

Issue Number 196: PP-WY-Rawlins-08-74

Individuals: Dan and Janet W. Blair

Issue Excerpt Text:

“The RMP allows industry development within sage grouse breeding and nesting habitats, making provisions only for timing limitations on construction - the very same timing limitations that have produced documented population declines in the Powder River Basin and the Upper Green River Valley . . . inadequacy of protection measures.”

Issue Number 198: PP-WY-Rawlins-08-10

Individual: Barbara E. Rugotzke

Issue Excerpt Text:

“This plan fails to prevent the industrialization of Sage Grouse breeding and nesting areas, relying on timing limitations for construction that have been shown by scientific studies to lead to major wildlife declines.”

Issue Number 199: PP-WY-Rawlins-08-51

Individual: Ron Marquart

Issue Excerpt Text:

“The plan fails to prevent industrialization of sage grouse breeding and nesting habitats... Big game winter ranges and raptor nesting areas get the same inadequate treatment.”

Response:

See the BLM’s response also to protest issues 144-172. The PRMP/FEIS provides adequate protective measures for all areas within the planning area. Under the Proposed Plan, “surface disturbing and disruptive activities that would potentially affect the habitat of special status species would be intensively managed on a case-by-case basis” (refer to p. 2-109 of the PRMP/FEIS). This will allow the BLM to protect special status species, including the greater sage-grouse and sharp-tailed grouse, among others. Intensive management of surface-disturbing and disruptive activities provides the BLM the flexibility to manage habitat for sensitive species. It will also allow the BLM to respond to, or modify, its management as technology and other circumstances change and new BMPs become available for implementation.

Issue Number 200: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“FEIS’s single citation to Dr. Holloran’s 2005 study is entirely misleading. . . . This statement, which appears to suggest that lek persistence and attendance does not suffer so long as rigs are placed east of leks, is an entirely misleading characterization of Holloran’s results. Holloran’s results found that distance to development influences breeding populations; the BLM’s citation of direction-dependent changes in attendance is applicable only if the results are controlled for distance. It is an entirely misleading characterization of Holloran’s and corroborating work, as well as inconsistent with the conclusions of the Best Available Science Report, to suggest that declines in breeding population might be avoided simply by locating drilling rigs east of leks.”

Response:

The reference to Holloran 2005 incorporates recent science linking the impacts of noise from oil and gas development to sage grouse lek attendance. This information was not intended to develop policy for the placement of wells in relation to leks; instead, it demonstrates how disruptive activities, including noise, may impact breeding sage grouse. The analysis also discusses the number of greater sage grouse leks that may be impacted within high or moderate

potential oil and gas development, and several other potential impacts of mineral development on greater sage grouse (refer to p. 4-456 of the PRMP/FEIS). Nowhere in the impact analysis does the BLM suggest that declines in breeding populations could be avoided simply by locating drilling rigs east of leks.

Issue Number 201: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Yet in the face of overwhelming evidence that its standard mitigation measures were a failure, the BLM has declined even to consider alternative mitigation for sage grouse.”

Issue Number 202: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“According to the limited analysis presented in the FEIS, application of mitigation measures as proposed combined with oil and gas development projected for the RMPPA will result in major declines in sage grouse and Columbian sharp-tailed grouse populations across more than a third of the RMPPA. This level of impact would clearly contribute to the need to list both BLM sensitive birds under the Endangered Species Act, in violation of BLM Sensitive Species Policy.”

Response:

The adequacy of the protective measures and the range of alternatives in the PRMP/FEIS is addressed above in the *NEPA* section of this report, and in the responses to protest issues 144-172. The BLM’s response to issues 144-172 also addresses the adequacy of the mitigation measures of unknown or discredited effectiveness specific to sage-grouse; the adequacy of and protections for Special Status Species in the PRMP/FEIS; and the BLM’s compliance with the ESA.

One of the purposes of this planning process is to propose and consider specific management prescriptions to ensure the continued habitat protection for a diversity of wildlife species, including the greater sage-grouse and Columbian sharp-tailed grouse, while allowing other resource uses and activities to continue within the Planning Area (see Purpose and Need, p. 1-6 of the PRMP/FEIS). The BLM is committed to providing the needed protections for species and their associated habitat while upholding the principles of multiple use and sustainable yield put forth in the FLPMA; while protecting existing land use rights; and complying with applicable laws, regulations, executive orders, and BLM Manuals (such as BLM Manual 6840). As project proposals are submitted and/or information is required for different wildlife species, the BLM utilizes a diversity of sources. This may include sources such as the *Wyoming Bureau of Land Management Species Assessments*, compiled by the Wyoming Natural Diversity Database (January 2006), the BLM library, University data bases, the internet, and numerous other resources to identify appropriate protection measures to benefit wildlife habitat. The references available during the planning effort and cited within the PRMP/FEIS do not support the protester’s conclusion that major declines for the grouse will occur.

Currently, management of sage-grouse in the Rawlins planning area is guided by the BLM National Sage-Grouse Strategy and the Wyoming Greater Sage-Conservation Plan, as is reflected

in the mitigations proposed in the PRMP/FEIS. This national direction was based on the best available scientific information. Additional consideration of local trends in populations and habitat of sage-grouse will take place within local conservation planning efforts, which are currently underway. The Rawlins Field Office has established BMPs as additional protective measures for the greater sage-grouse, with sage-grouse lek buffer and seasonal restrictions (refer to Appendix 15 of the PRMP/FEIS, pp. A15 -1 through A15-2).

Issue Number 203: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“Despite the clear finding that standard lease stipulations are inadequate to protect [sage-]grouse populations, . . . the FEIS and Proposed RMP continue to rely on demonstrably ineffective measures to stem development-related sage-grouse decline, and are inconsistent with BLM's sage-grouse conservation obligations under FLPMA and BLM policy. . . . there is now substantially greater valid scientific information available than at the time of the [Fish and Wildlife] Service's now-invalidated 2005 listing decision . . . in the FEIS and Proposed RMP, BLM has neither acknowledged nor acted upon that science.”

Issue Number 204: PP-WY-Rawlins-08-105

Organization: Grouse Inc.

Issue Excerpt Text:

“BLM has consistently ignored sage-grouse needs and the scientific literature upon which developed guidelines (including mitigation) (Connelly et al. 2000) to maintain sage-grouse populations are based. Most seriously, the BLM has chosen a 0.25-mile distance from active leks for avoidance of or restrictions on development even though the scientific literature indicates there should be no manipulation of sagebrush habitats within 3 miles of active leks (Connelly et al. 2000) or further (Holloran 2005). The 1/4-mile restriction during drilling appears to have been created to justify existing practices and is not based on any reputable science.”

Issue Number 205: PP-WY-Rawlins-08-105

Organization: Grouse Inc.

Issue Excerpt Text:

“There appears to be a systematic attempt to ignore science, especially in regards to monitoring, mitigation and, especially, restrictions on NSO near active sage-grouse leks. This further documents that status as a ‘sensitive’ species as promoted by the BLM is not followed by use of science in managing habitats to ‘maintain and enhance’ populations of greater sage-grouse. The BLM's Proposed RMP and FEIS for the Rawlins Field Office do not provide any evidence of scientific credibility regarding greater sage-grouse.”

Response:

See the BLM’s response to protest issues 144-172. The BLM used best available scientific and other relevant information throughout the Rawlins PRMP/FEIS planning process to develop management actions and conservation efforts regarding the greater sage-grouse. Management of greater sage-grouse in the Rawlins planning area is guided by existing planning area-wide and statewide guidance including the BLM National Sage-Grouse Habitat Conservation Strategy; the Wyoming Greater Sage-Grouse Conservation Plan (June 24, 2003); WY-IM-2004-057, Statement of Policy Regarding Greater Sage-Grouse Management Definitions and Use of Protective Stipulations and Conditions of Approval; and WY-IM-030-2006-001, Statement of Policy Regarding Greater Sage-Grouse Management Definitions and Use of Protective

Stipulations and Conditions of Approval. These documents are available are available at the BLM Rawlins Field Office for public review. The PRMP/FEIS cites many of the scientific studies considered during the Rawlins planning process within the Literature section of the document, including but not limited to: p. L-1: Aldridge, CL; p. L-3: Braun, CE, Braun et al, and Connelly; p. L-8: Holloran, M.J and Holloran et al; p. L-10: Lyon, A.G.; and p. L-12: Patterson, R.L.

Under the Proposed Plan, “Surface disturbing activities or occupancy would be prohibited on and within ¼ mile of the perimeter of an occupied greater sage-grouse or sharp-tailed grouse lek.” This ¼ mile restriction is consistent with the BLM-specific policy provided in WY-IM-030-2006-001 and WY-IM-2004-057. In addition, this restriction is consistent with the Wyoming Greater Sage-Grouse Conservation Plan’s recommendation to “Avoid surface disturbance or occupancy on or within 1/4 mile of known active lek sites” (refer to p. 34 of the Wyoming Greater Sage-Grouse Conservation Plan, June 24, 2003). The National Sage-Grouse Habitat Conservation Strategy, also used to guide the PRMP/FEIS decisions, references the study of Connelly et al. (2000) and focuses on a cooperative integrated approach to sage-grouse management as coordinated with WGFD. The PRMP/FEIS has ensured that appropriate actions are identified at the appropriate scale for conserving sage-grouse and sagebrush habitat.

The PRMP/FEIS has established BMPs as additional protective measures for the greater sage-grouse - as well as the sage-grouse lek buffer and seasonal restrictions (refer to Appendix 15 of the PRMP/FEIS, pp. A15 -1 through A15-2). The BLM will continue to adjust and adapt management within the Rawlins planning area as new information, science and monitoring results are evaluated for effectiveness.

Issue Number 206: PP-WY-Rawlins-08-105

Organization: Grouse Inc.

Issue Excerpt Text:

“Effectiveness of Proposed Mitigation. . . . There is no effective mitigation when the restriction for NSO [no surface occupancy] is only 0.25 mile as documented by studies by M. J. Holloran (references attached to this document). . . . These [sic] is no demonstrated evidence that any mitigation, defined or not defined, has resulted in maintaining or enhancing sage-grouse populations anywhere, which is a stated goal in the Proposed RMP and FEIS [Final Environmental Impact Statement] for the Rawlins Field Office. . . . The poorly defined mitigation practices in the Rawlins Proposed RMP and FEIS have been a constant in the BLM’s preferred alternatives across Wyoming and have not been demonstrated to be effective, anywhere.”

Response:

The BLM Wyoming policy on management of surface disturbing and disruptive activities around sage-grouse leks is addressed above; see response to. Goals and objectives identified in the Proposed Plan provide adequate direction for managing each resource. These goals and objectives are the foundation for developing a monitoring system to track the results of the management actions. Indicators that represent resource conditions or change are identified for monitoring. Performance standards are developed at the activity planning level, guided by the resource goals in the land use plan. In addition, data sources for monitoring studies and

scientific research, including those required for sage-grouse, are identified and selected for use before the monitoring process is implemented (refer to p. A17-10).

Table 2-1 (Detailed Comparison of Alternatives) in the PRMP/FEIS includes desired future outcomes and objectives within the context of each resource or program's goals and objectives, where appropriate. As implementation level activity plans are developed, more specific goals and quantifiable objectives will be included to address the specific resource RMP-level goals and objectives. The BLM will continue to manage for biological integrity and habitat function of terrestrial and aquatic ecosystems to sustain and optimize distribution and abundance of all native, desirable non-native, and Special Status fish and wildlife species (refer to the management goal presented on p. 2-103, General Wildlife, Management Goals Common to All Alternatives).

As noted above, the BLM will maintain, restore, or enhance designated BLM State Sensitive Species habitat in order to prevent listing under the ESA, in coordination and consultation with other local, state, and federal agencies and consistent with other agency plans, policies, and agreements (refer to p. 2-103). In addition, "surface disturbing and disruptive activities that would potentially affect the habitat of special status species would be intensively managed on a case-by-case basis" (refer to p. 2-109). Intensive management will allow the BLM to protect Special Status Species, including the greater sage-grouse. Mitigation measures and BMPs found in Appendix 1 and Appendix 15 will be incorporated into project-specific or site-specific project proposals following adequate NEPA analysis. Intensive management of surface-disturbing and disruptive activities provides the BLM the flexibility to manage habitat for sensitive species and respond to or modify management as technology and management opportunities change and new BMPs become available for implementation. These measures are adequate to reduce potential environmental consequences and are innovative, dynamic, and economically feasible mitigation measures that are applied on a site-specific basis to reduce, prevent, or avoid adverse environmental impacts.

The PRMP/FEIS includes species-specific management actions that will be implemented at the site-specific project stage, as appropriate as well as BMPs that will be implemented until new BLM guidance is issued for sage-grouse. Any activity the BLM approves at the site-specific stage must be consistent with current direction at that time. The Rawlins Field Office, other government agencies, and the scientific community are currently reviewing the existing mitigation standards for sage-grouse.

Management actions identified for the Rawlins planning area are based on studies and the best scientific and commercial information available at the time of the release of the draft RMP. To address changing conditions and provide management flexibility through the use of BMPs, the Rawlins Field Office will conduct monitoring activities for management actions and evaluate the effectiveness of identified BMPs over time. Monitoring and evaluation not only analyze the current resource conditions as a result of implemented actions, but also identifies and recommends alternatives or modified actions, as necessary, to reach established objectives and goals. This process provides the optimum means to check the effectiveness of management actions; however, it should be noted that the capability to conduct the process at the optimum level can vary from year to year.

Issue Number 207: PP-WY-Rawlins-08-14
Organization: Western Watersheds Project

Issue Excerpt Text:

“The NEPA documents for the RMP failed to provide any information regarding population trends of sage-grouse in the planning area. Discussion of West wide population trends fails to meet the purpose and intent of NEPA. There was no mapping or analyses of current sage-grouse habitat conditions, or any discussions as to the current state of the various types of sage-grouse habitat, nor why leks have been abandoned.”

Issue Number 208: PP-WY-Rawlins-08-14
Organization: Western Watersheds Project

Issue Excerpt Text:

“Monitoring of sage-grouse and sage-grouse habitat is not addressed in the RMP even though this is a critical issue in the current process. The NEPA documents and RMP failed to adequately delineate what the management direction actually would be, how it would be applied, when, and where. . . . The NEPA documents and the RMP often state that various BMPs ‘would be considered.’. This is clearly insufficient to protect this species.”

Issue Number 209: PP-WY-Rawlins-08-14
Organization: Western Watersheds Project

Issue Excerpt Text:

“The NEPA documents fail to indicate that there may be a need to significantly alter current management to meet the needs of sage-grouse and other sage dependent species even though nearly all current research points to the need of changing livestock management processes. This violates NEPA.”

Response:

Information regarding population trends of sage-grouse is addressed in Chapter 3 (refer to pp. 3-156 through 3-158). As stated in the PRMP/FEIS, conservative estimates suggest that 50 percent of the area historically occupied by sage-grouse is no longer capable of supporting the species on an annual basis; however, Wyoming historically supports more greater sage-grouse than any other state because of the prevalence of sagebrush habitats. Amassing data to detail site-specific conditions is not appropriate at this land use plan-scale. Discussion of the current site-specific habitat conditions for all sage-grouse habitat, lek establishment, lek abandonment, and professional discourse on population fluctuations may occur during site-specific implementation planning. The PRMP/FEIS discusses current habitat conditions at a level appropriate for a land use plan level analysis in Chapter 3 (refer to p. 3-157).

The PRMP/FEIS provides for monitoring of all management prescriptions to meet the identified goals and objectives of the PRMP/FEIS. The introductory text of Appendix 17 describes the process under which monitoring will be used to ensure that predicted impacts to environmental resources have not been exceeded and that mitigation measures are sufficient. As described in Appendix 17, various types of monitoring data will be collected and evaluated during implementation of the Rawlins Approved Plan, as well as the numerous triggers requiring consideration for management adjustments. If issues of State or Federal authority become evident, the BLM will coordinate with other Federal, state, and local land and resource management agencies, such as the NRCS, WGFD, and FWS. This coordination could involve

the formation of Activity Plan Working Groups as described in section 2.7.2, Activity Plan Working Groups (refer to p. 2-16).

The Resource Monitoring Table provides a framework for development of project-specific monitoring plans as identified in section 2.7.1., Monitoring and Evaluation Plan (refer to Appendix 17 and Table A17-1). The actual indicator, amount, and frequency of monitoring will depend on the consideration of resource sensitivity, number of activities potentially affecting a resource, available workforce, and funding level. The actual monitoring plans will be developed during implementation activities and activity plan development. Well-defined and quantified benchmarks triggering management changes and explicit remedial steps in the case that benchmarks are exceeded could be considered as elements of a project-specific or site-specific monitoring plan that will be developed during the activity planning and implementation stages of the Rawlins Approved Plan.

The protester also raises specific concerns relating to management actions and direction for sage-grouse and sage-grouse habitat. The BLM also responds to these concerns above (see response to issues 203-205). The management actions identified for the Rawlins planning area are based on studies and the best scientific and commercial information available. However, conditions may change during the life of the land use plan. Experience has shown that implemented management actions can be improved as new technology and new information become available. It is also possible that changes in land use will require a different management action to protect the resources. To address the changing conditions and provide management flexibility that uses best management practices, the Rawlins Field Office conducts monitoring and evaluation, which measures the effectiveness of existing actions through monitoring and application of new scientific research. Monitoring and evaluation not only analyzes the current resource conditions as a result of implemented actions but also identifies and recommends alternatives or modified actions, as necessary, to reach established objectives and goals. This process provides the optimum means to check the effectiveness of management actions. Because the capability to conduct the process at the optimum level can vary from year to year, monitoring is prioritized.

Wyoming BLM IM 2004-057, “Statement of Policy Regarding Sage-Grouse Management Definitions, and Use of Protective Stipulations, and Conditions of Approval” provides policy on management of surface disturbing and disruptive activities around sage-grouse leks. The IM states, “The following distances, and timeframes will hereafter be utilized in all new land use and activity plan development (including revisions), and other resource management implementation actions (authorizations and projects) that involve activities that may impact sage-grouse or their habitats on BLM administered Public Lands in Wyoming. These distances and timeframes are based on current information, and may be subject to change in the future based upon new information.”

Issue Number 210: PP-WY-Rawlins-08-105

Organization: Grouse Inc.

Issue Excerpt Text:

“There is no evidence in the Rawlins Proposed RMP and FEIS that the BLM has taken a ‘hard look’ at the impacts of their decisions on oil and gas development (or even livestock grazing) on maintaining and

enhancing populations of greater sage-grouse... The analysis of the impacts on sage-grouse of the planned activities is not credible or complete.”

Issue Number 211: PP-WY-Rawlins-08-14

Organization: Western Watersheds Project

Issue Excerpt Text:

“BLM violated NEPA by failing to take a ‘hard look’ at the impacts of livestock grazing on sage-grouse habitat. . . . BLM’s cursory review of the impacts of grazing on sensitive species does not satisfy NEPA’s ‘hard look’ mandate.”

Issue Number 212: PP-WY-Rawlins-08-14

Organization: Western Watersheds Project

Issue Excerpt Text:

“The NEPA documents fail to disclose the impacts of current ‘range improvements’ on sage-grouse and other sage dependent species. The documents likewise fail to indicate the impacts of the annual increase in range improvements that would be approved as a result of the proposed RMP direction. . . . The wildlife section starting on page 4-450 only provides very general information regarding impacts wildlife but says nothing specifically regarding sage-grouse and livestock grazing even though livestock grazing is the primary impact to sage-grouse habitat.”

Response:

The BLM Wyoming policy on management of surface disturbing and disruptive activities related to sage-grouse is also addressed above. In Chapter 4 of the PRMP/FEIS, the BLM has analyzed the potential environmental consequences of the Proposed Plan and other alternatives (refer to pp. 4-1-535). The protesters express concerns relating to the potential additive effects of livestock grazing in addition to oil and gas drilling. The regulations at 40 CFR § 1508.7 defines “cumulative effects” as: “The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” The incremental impacts to the environment is described in Chapter 4 of the Rawlins PRMP/FEIS (refer to pp. 4-486 through 4-4-531).

The impact analysis provides analysis of all species present in the planning area (refer to pp. 4-476 through 4-477 and pp. 4-454 through 4-455 and 4-482 through 483). The BLM continues to manage rangelands for attainment of Standards for Healthy Rangelands. Livestock grazing impacts nearly all rangelands within the planning area and, if managed correctly, would have minimal negative impacts. Cooperative efforts and other partners, such as conservation districts, the University of Wyoming extension service, the NRCS, grazing boards, nonprofit groups, and even industry organizations, all assist in promoting improved grazing practices and use of BMPs to minimize the negative impacts from grazing.

Special Status Plant Species Issues

Issue Number 213: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“The BLM did not take a hard look at potential environmental impacts, and the FEIS fails to accurately assess impacts of the Proposed Plan on special status plants and unique plant communities. The mandate to ‘objectively evaluate the environmental impacts of implementing each alternative’ (p 4-1) is not met, and the FEIS is incorrect in stating that there will be no significant impacts.”

Response:

Compliance with NEPA’s ‘hard-look’ is addressed above; see the BLM’s response to issue 9. The protective measures in the Rawlins PRMP/FEIS are also addressed above; see response to protest issues 144-172. The BLM assessed the impacts of the Proposed Plan on Special Status Species throughout the PRMP/FEIS (refer to Table 2-1 and Chapter 4, Environmental Consequences). The implementation of BLM’s Mitigation Guidelines, restrictions on surface use, implementation of Standards for Healthy Rangelands (DOI, BLM 1997), desired plant community objectives, and monitoring efforts will provide protection to vegetative resources on Federal lands, and possibly lands with Federal subsurface minerals (refer to p. 4-523).

Issue Number 214: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“The BLM cannot provide adequate on-the-ground oversight to prevent negative impacts [to Special Status Plant species].”

Issue Number 215: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“Mitigation of negative impacts on special status plants is impossible in most cases.”

Issue Number 216: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“Decisions [related to protections for Special Status Plants] are deferred to the project level, and rely on the discretion of individual managers.”

Issue Number 216a: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“Monitoring as a way of adjusting management for protection of special status plants is unrealistic.”

Response:

On-the-ground oversight is included in the PRMP/FEIS, including field visits to be conducted to identify if habitat and/or plants are in the project area. The project is moved or modified to avoid the habitat or the plants; however, if avoidance is not possible, the project is designed to minimize disturbance to the identified habitat or plants. In the rare instance that a project would not be able to be modified to the extent needed to protect the plants, the project would not be authorized” (refer to Appendix 24, Mitigation Guidelines for Special Status Plants).

The PRMP/FEIS allocates the use of public lands for multiple uses and provides analysis of potential management direction for important resource values and resource uses within the planning area. The PRMP/FEIS also provides management direction for the protection of certain resources such as Special Status Plants, while allowing leasing and development of mineral resources, livestock grazing, and other activities at appropriate levels. At the same time, the PRMP/FEIS allows for management discretion to make decisions at the site-specific project-level and provides management flexibility that incorporates BMPs. The site-specific management decisions are tiered to the RMP-level decisions.

The BLM manages habitat for Special Status Species, as well as habitat for T&E species, and the PRMP/FEIS provides protection measures as stated in Table 2-1 under “Species Listed on the BLM Wyoming State Director’s Sensitive Species List and Endangered (E), Threatened (T), Proposed (P), and Candidate (C) Species.” In addition, the PRMP/FEIS details protection measures and management actions in Appendices 10, 16, and 24. Of the 37 species on the BLM Wyoming list of sensitive species, 10 species are plants. The best available science and information was utilized during the PRMP/FEIS planning process. Additional information will be gathered on the remaining Special Status Species, either through general inventory work or through project inventory. As more information is gathered on Special Status Plants in the future, Rawlins Field Office will implement appropriate protective measures through intensive management.

Issue Number 217: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“With regard to locatable mineral entry, the Proposed Plan provides conflicting direction. For example sites with special status plants are to be closed to locatable mineral entry (2-94) but within the ACEC for the endangered blowout penstemon, locatable mineral entry will be allowed (2-77).”

Response:

Within the proposed endangered Blowout penstemon ACEC, locatable mineral entry will be closed to occupied habitat and not to the entire ACEC. Currently, there are no known locatable mineral deposits underneath known populations of Blowout penstemon; however, the Programmatic BO for the Wyoming Bureau of Land Management’s Rawlins Resource Management Plan states, “The Bureau may have other proposed projects which have not specifically been covered with a buffer distance conservation measure in the above list. Such proposed projects will (1) be designed and locations selected to minimize disturbances to known Blowout penstemon populations and (2) will not be authorized within 0.25 miles of any known Blowout penstemon populations without concurrence of the Service and the Bureau-authorized officer. If avoidance of adverse effects is not possible, the Bureau will re-initiate consultation with the Service over the effects of the RMP to the Blowout penstemon” (refer to Appendix 14, Conservation Measures for Blowout penstemon).

Forestry

Issue Number 219: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“For Forest Management, the BLM failed to identify an appropriate cumulative impacts analysis area.”

Response:

The adequacy of the impact analyses has been addressed above. The forest management cumulative impact analysis area was appropriately limited in scope to BLM public lands available for commercial forest management and the adjacent non-BLM commercial forest lands. The BLM-administered commercial forest lands located on Shirley Mountain (more than 60 miles away from National Forest lands) or Elk Mountain (more than 10 miles away from National Forest lands) are not likely to be directly affected by actions on National Forest lands, and vice versa.

The page referenced by the protester from the PRMP/FEIS (FEIS at p. 4-498) refers to the cumulative impact analysis area for forest management and the analysis of reasonably foreseeable future actions on Forest Management and not on wildlife and fish. The impacts to wildlife resources referred to by the protester are adequately discussed in the general wildlife impacts section, section 4.19 (refer to pp. 4-450 through 4-485) and the cumulative impact section, section 4.20 (refer to pp. 4-529 through 4-531). The cumulative impact analysis area for the northern goshawk and lynx, specifically mentioned by the protester, is the entire Rawlins planning area, which includes National Forest lands (refer to p. 4-529).

Issue Number 220: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“There are several misleading statements in the BLM’s response to concerns about invading species...If the BLM can provide any scientific studies indicating that limber pine encroachment into lodgepole pine woodlands is an actual phenomenon, please provide the references. If not, please remove any and all references to this occurrence from the analysis.”

Response:

The reference to limber pine invasion into lodgepole pine stands is a Mountain West region issue raised during development of the Healthy Forest Initiative and the Healthy Forest Restoration Act of 2003. The BLM relied on site-visits and field monitoring of existing forest conditions (conducted by BLM specialists) to supply knowledge and information used in the PRMP/FEIS in relation to this issue. Though not provided in the PRMP/FEIS, there is existing scientific documentation that supports the phenomenon of limber pine growing on sites occupied by Lodgepole pine. The BLM’s statements of concern to BCA can be supported by scientific research and work done by Robert Steele: Steel, R., S. V. Cooper, D. M. Ondov, D. W. Roberts, and R. D. Pfister. 1983. *Forest habitat types of Eastern Idaho and Western Wyoming*. U.S. Department of Agriculture (USDA) Forest Service, General Technical Report INT-144. Intermountain Forest and Range Experiment Station, Ogden, UT. This paper states: “As well as

being dominant in the Limber Pine forest cover type (Society of American Foresters Type 219), limber pine is a minor component of the following (32); Engelmann Spruce-Subalpine Fir (Type 206), Whitebark Pine (Type 208), Bristlecone Pine (Type 209), Interior Douglas-Fir (Type 210), Aspen (Type 217), Lodgepole Pine (Type 218), and Interior Ponderosa Pine (Type 237). Southward into Wyoming, southern Idaho, and northern portions of Colorado, Utah, and Nevada, limber pine may dominate windswept slopes and ridges at upper or lower tree line or appear in stands of white fir (*Abies concolor*), lodgepole pine, and Douglas-fir. In this region, limber pine appears most often with Engelmann spruce, subalpine fir, and quaking aspen (*Populus tremuloides*), least often with ponderosa pine. In Wyoming, limber pine occasionally coexists with whitebark pine, particularly in the Wind River Range. The two species also coexist on a few sites in northeastern Nevada (5, 25), but usually where their ranges overlap they occupy different soils” (p. 122)

Issue Number 221: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM advocates for clearcutting because it is the best way to perpetuate stands of lodgepole pines, which germinate best in open sunlight...However, the BLM does not provide any analysis to determine that lodgepole pine forest acreage needs to be maintained or increased.”

Response:

The BLM’s analysis is intended simply to disclose potential impacts from the Proposed Plan, rather than advocate certain management actions. Impact analysis is not intended to provide a justification for the BLM’s management goals. The BLM goal is to work toward improving overall forest health by maintaining and/or enhancing existing forest stands, not exclusive to, but including, lodgepole pine stands, within the Field Office. The overall goal is to promote forest stand health for the forest as a whole and not to increase or maintain a *specific* acreage of lodgepole pine. See Table 2-1, Management Goals and Objectives; Chapter 2-Forest Management; pp. 2-26 and 2-27.

As noted on page 4-47 of the PRMP/FEIS, clearcutting is not the only silvicultural practice identified in the PRMP/FEIS for the treatment of lodgepole pine stands. Stewardship projects/contracting, tree selection/select cuts, group selection/group select cuts, shelter-wood cuts, seed tree cuts, sanitation cuts, and salvage cuts were also identified; refer to the Forestry section of Appendix 19.

Lands and Realty

Issue Number 222: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The Shirley Mountains SRMA should also be withdrawn from consideration for withdrawal from designation of ROW corridors. However, no such withdrawal is considered under any alternative (see FEIS at 2-113) in violation of the NEPA’s range of alternatives requirements.”

Response:

The adequacy of the reasonable range of alternatives for the PRMP/FEIS is addressed in the NEPA section of this report. The Shirley Mountain Special Recreation Management Area (SRMA) is listed in table 2-5 as a Utility/Transportation Systems, Communication Sites, and Wind Energy Avoidance Area (refer to p. 2-145). The definition of avoidance area will be clarified in the Record of Decision to state, “Areas to be avoided which may be available for location of ROWs and Section 302 permits, leases, and easements with special stipulations or mitigation measures. For such authorizations, the area’s environmental sensitivity and other feasible alternatives will be strongly considered.” If it becomes necessary for facilities to be placed within avoidance areas, effects will be intensively managed (refer to p. 2-145). Communication facilities currently exist within the Shirley Mountain SRMA. This management action retains for BLM management the opportunity to consider siting additional facilities on Shirley Mountain, when appropriate and consistent with the goals and objectives for the Shirley Mountain SRMA.

Issue Number 223: PP-WY-Rawlins-08-104

Organization: Shell WindEnergy

Issue Excerpt Text:

“The FEIS has significantly restricted the designated utility/transportation corridors. . . . According to BLM, the existing corridors provide an adequate net for the placement and development of future ROWs. FEIS, at 3-26...Corridors evaluated in 1993 fail to take into account increases in and redistribution of energy supply and demand. SWE [Shell WindEnergy Inc.] asks BLM to reconsider the designated utility/transportation corridors in the RMP in light of more current data on utility transmission needs.”

Response:

The PRMP/FEIS states, “[e]xisting major transportation and utility ROWs (Map 2-2) provide an adequate net (de facto corridor) for the placement and development of future ROWs. Current rights-of-way (ROWs) are sufficient to meet the priorities for *interstate transmission* [emphasis added] of telephone communication, electric power, fluid mineral resources, and interstate commercial and private travel.” Refer to page 3-36 of the PRMP/FEIS.

A discussion of the utility corridor designations and avoidance areas are included in Table 2-1, labeled, “Detailed Comparison of Alternatives, Lands and Realty, Management Actions Common to All Alternatives” (refer to pp. 2-29 of the PRMP/FEIS). In addition, Appendix 34, “Designated ROW Corridor Criteria,” includes discussion of how new transmission facility proposals are addressed in existing utility corridors (refer to Appendix 34, p. 1 of the PRMP/FEIS).

The Energy Policy Act of 2005 (Public Law 109-58), Section 368, refers to the designation of west-wide [interstate] energy corridors. The Act is being implemented through current development of an interagency programmatic environmental impact statement that will amend plan decisions to address numerous energy corridor-related issues, including the use of existing

corridors (enhancements and upgrades); identification of new corridors; supply and demand considerations; and compatibility with other corridor and project planning efforts. It is likely that identification of corridors in the programmatic EIS will affect the Rawlins planning area and that the approved programmatic EIS would subsequently amend the approved Rawlins RMP (refer to pp. 1-13 to 1-14 of the PRMP/FEIS).

The Approved Plan also provides the opportunity for placement of new utility/transportation facilities within the Rawlins planning area to connect new facilities (i.e., wind energy development projects) to the interstate transmission network. The Approved Plan management action will avoid important resource values where possible in planning for new facility placement (refer to p. 2-31 of the PRMP/FEIS).

Leasable Minerals

Issue Number 224: PP-WY-Rawlins-08-100

Organization: BP America Production Company

Issue Excerpt Text:

“As currently addressed and without clarification, the RFD [Reasonable Foreseeable Development] scenario could be misinterpreted as a cap on the number of wells that can be drilled in the resource management area over the next 20 years.... BLM goes too far, however, when it implies that a plan amendment or revision may be required for development that exceeds the RFD scenario.”

Issue Number 225: PP-WY-Rawlins-08-102

Organization: Anadarko Petroleum Corporation

Issue Excerpt Text:

“Anadarko protests the BLM apparent use and description of the reasonably foreseeable development scenario (RFD)...[Petroleum Association of Wyoming/Public Lands Advocacy] PAW/PLA questioned BLM's use of a well count as some sort of a threshold of activity contemplated by the RMP... BLM is suggesting there are a fixed number of wells (including associated surface disturbance amounts) that operators have proposed to drill thereby leading to the argument that this number or the surface disturbance estimate should somehow act as a cap on the amount of wells that can be drilled.”

Response:

In response to this protest, the BLM has added section 1.1.2 of the Rawlins ROD to clarify that the number of wells projected in the reasonably foreseeable development scenario (RFDS) for oil and gas development does not limit the number of wells that can be drilled in the planning area or the amount of surface disturbance that will be allowed during the period covered by the Approved RMP. The RFDS (for any resource as presented in Appendix 33, *Reasonably Foreseeable Developments and Reasonably Foreseeable Actions*) is intended for analysis purposes only. Individual implementation level project proposals will be subject to site-specific NEPA analysis to ensure conformance with the Approved RMP.

Issue Number 226: PP-WY-Rawlins-08-100

Organization: BP America Production Company

Issue Excerpt Text:

“BP did not submit comments on Appendix 36 because BLM included it for the first time in the Final EIS [Environmental Impact Statement].... In Appendix 36 of the proposed RMP, [the] BLM includes the elements that need to be considered in developing a reclamation plan. It is not clear whether Appendix 36 imposes fixed standards that must be met or whether [the] BLM and the operators can tailor a reclamation plan to meet on-the-ground circumstances.”

Issue Number 227: PP-WY-Rawlins-08-102

Organization: Anadarko Petroleum Corporation

Issue Excerpt Text:

“Anadarko objects to the inclusion of the reclamation plan because it was not included in the draft EIS.”

Response:

An approved reclamation plan is required as part of the surface use plan of operations (DOI and USDA 2006, *Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development*, pg 44). The inclusion of the reclamation plan in Appendix 36 is intended as guidance in meeting the directive.

Appendix 36 includes a template (use of which is voluntary) and examples of what may be included and taken in consideration to meet reclamation requirements. Standards for reclamation success are identified and will be considered along with site-specific suitability. Industry is encouraged to work with the BLM to develop and improve appropriate reclamation success standards.

As stated in Appendix 36, “A reclamation plan appropriate in detail and complexity and tailored to a specific surface disturbing activity will be required and made a condition of approval of any action. This appendix details the elements that need to be considered during pre-disturbance authorization of any surface disturbance and the post-disturbance steps required to assure timely and proper recovery of the site. The reclamation plan will provide a framework to develop project-specific and site-specific reclamation actions and guide land management efforts toward a planned future condition for any surface disturbance. Early coordination between the BLM and project proponents is necessary to produce a comprehensive plan.” Refer to p. A36-1 of the PRMP/FEIS.

Issue Number 228: PP-WY-Rawlins-08-102

Organization: Anadarko Petroleum Corporation

Issue Excerpt Text:

“it [the reclamation plan] lacks the flexibility necessary to address site-specific variations that take into consideration with wide diversity of environments...on page A36-1, it states that a reclamation plan should provide "sufficient information for the development of a basis of inspection and enforcement of reclamation and criteria to be used to evaluate reclamation success..."This implies that a project proponent can propose criteria to the BLM that would be evaluated as part of the overall evaluation of a proposed project; thereby allowing for the consideration of specific soil types, vegetation, elevation and climate. However, this assumption is negated by the statements made on page A36-10, where BLM provides the following under the heading of "Criteria for Reclamation success" and appears to be requiring that all plans for future projects within the Rawlins RMP meet the following - 80 percent of predisturbance ground

cover; 90 percent dominate (sic) species; no noxious weeds; and erosion features equal to or less than the surrounding area.”

Response:

See the response to issue 227 above. The BLM requires that a reclamation plan be included in surface use plans of operations for a project and encourages that these site-specific reclamation plans address the affected environment. The BLM and the operators can tailor a reclamation plan to meet site-specific circumstances.

Issue Number 229: PP-WY-Rawlins-08-90

Organization: Devon Energy Production Company

Issue Excerpt Text:

“Devon protests the BLM's thresholds triggering a requirement for compensatory or offsite mitigation contained in Appendix 18 of the Proposed Rawlins RMP...the identified ‘thresholds’ are entirely inappropriate because they are not based or supported by site-specific data. The BLM cannot simply assume that the selected thresholds are appropriate in every habitat type.”

Issue Number 230: PP-WY-Rawlins-08-102

Organization: Anadarko Petroleum Corporation

Issue Excerpt Text:

“Anadarko protests the inclusion of thresholds in Appendix 18 that appear to require implementation of compensatory or off-site mitigation...BLM has retained language that contradicts these statements and appears to mandate the use of off-site mitigation if certain thresholds are met...it [BLM] lacks the authority to require off-site mitigation... BLM has failed to provide any analysis to support the thresholds set out in Appendix 18 thus rendering adoption of them arbitrary and capricious.”

Response:

Off-site mitigation is voluntary on the part of the applicant (refer to pp. A18-1 and page A18-5). Thresholds in Appendix 18 of the PRMP/FEIS do not automatically trigger off-site mitigation, since thresholds for off-site mitigation can only be determined by site-specific analysis of a detailed proposal. Thresholds are included for illustrative purposes (refer to p. A18-2). These examples are not intended to create specific management direction or a specific onus for off-site mitigation provided by industry, but rather to demonstrate conditions under which off-site mitigation could become appropriate to consider. The examples are conditions when disturbance in a specific area might exceed the level that would be biologically tolerated, or when effects exceed the physical capacity of the area to absorb or dampen impacts. Best available science will be used to establish thresholds for consideration of off-site mitigation on a project-level basis. Examples of best available science are regional or local peer-reviewed literature, administrative studies, and monitoring for adaptive management.

There are two cases where off-site mitigation may be included in site-specific authorizations granted through implementation of the Rawlins Approved Plan: when off-site mitigation is voluntarily included in a proponent’s plan of development to compensate for impacts that might otherwise be unacceptable such that the BLM may not authorize the permit (refer to pp. A18-1, A18-3, and A18-5); and when voluntary off-site mitigation is used to reduce impacts to less than “significant” for NEPA purposes (refer to p. A18-6).

Issue Number 231: PP-WY-Rawlins-08-102

Organization: Anadarko Petroleum Corporation

Issue Excerpt Text:

“Anadarko protests BLM's definitions for "disruptive activities" and "intensive management." Glossary at G-8 and G-10. Although BLM revised the definition of disruptive activities, the definition remains overly broad. Moreover, disallowance of "disruptive activities" could violate an oil and gas lessees' rights to access the surface of its lease. We again urge BLM to reduce the scope of activities covered by the definition or limit its application to species listed under the Endangered Species Act. BLM has wholly failed to address Anadarko's concerns with the definition of "intensive management,"...BLM has also included a new definition for "other activities,"... [which] appears to serve no real purpose and may lead to confusion.”

Response:

The definition of “disruptive activities” (PRMP/FEIS, p. G-6) is appropriately broad to provide the BLM flexibility to address the full range of actions potentially authorized on the public lands. The term or concept of “disruptive activities” as part of management actions and impact analysis in the PRMP/FEIS considers the non-surface disturbing aspects of human activities conducted on the public lands (e.g., compressor noise, human presence, off-highway vehicle travel, etc.). The use of the term “disruptive activities” and the management actions, stipulations, and BMPs designed to reduce impacts from disruptive activities are not intended to preclude authorized activities or access to leases but to influence how they are accomplished. Management actions to reduce disruptive activities in sensitive areas (found in Appendix 15, Best Management Practices) are designed to reduce the impacts caused by continued human presence in areas of sensitive habitats or resources. This increased emphasis on disruptive activities is the result of monitoring and professional opinion that increased human presence caused by increased industrial development and recreational activities, among others, has caused increased levels of stress to wildlife and increased avoidance of preferred habitat.

Surface disturbing activities will be intensively managed as described in the PRMP/FEIS under Oil and Gas – General Protection Requirements (refer to p. 2-36). “Intensive management” is a broad characterization of the need for various mitigation measures that could be applied in an area or to a management action where competing uses of resources (including conservation) may be present and the mitigation of impacts to these resources may be complex or fairly restrictive (refer to p. A38-71). The term does not imply a specific set of management directives for an area. The definition of “intensive management” on page G-10 of the PRMP/FEIS includes reference to various appendices that contain BMPs important to support management actions that refer to intensive management. The definition is clear that intensive management would influence on-the-ground actions to reduce or eliminate impacts while allowing the authorized action to occur. The intent of intensive management and the presentation of the various mitigation measures and BMPs that may be considered to reduce impacts of authorized actions on other resources are appropriate for a land use plan-level environmental analysis. Additional project-specific or site-specific environmental analysis will identify and support the application of specific mitigation measures and BMPs.

In response to this protest, a clarification will be made in the Record of Decision pertaining to the definition of ‘other activities.’ The use of the term ‘other activities’ is infrequent in the Proposed RMP and the definition in the glossary does not apply to, or support, the term as used in the PRMP/FEIS. This clarification removes the unnecessary definition from the glossary.

Issue Number 232: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Many cutting edge methods for managing oil and gas development, including directional drilling, well clustering, limits on well densities, and phased development, are not implemented or even considered for mandatory implementation under any alternative, even though these measures have been required in programmatic land-use decisions in other BLM jurisdictions.”

Response:

The adequacy of the reasonable range of alternatives for the PRMP/FEIS is addressed in the *NEPA* portion of this report. The protester raises specific concerns about the level of protection provided in the PRMP/FEIS in regard to directional drilling, well clustering, limits on well densities, and phased development. The BLM considers ‘directional drilling’ or ‘clustered development’ to be BMPs and not specific provisions of an alternative to be considered at the land use planning level.

As noted previously, BMPs are innovative, dynamic, and economically feasible mitigation measures applied on a site-specific basis to reduce, prevent, or avoid adverse environmental or social impacts. The BMPs need to be adapted to meet the site-specific requirements of a particular project as well as the local environment. The BMPs are incorporated into site-specific project proposals and supported by site-specific environmental analysis. The Rawlins PRMP/FEIS does not mandate BMPs for particular actions at the land use plan level and instead provides a range of BMPs that will be applied, where appropriate, at the activity plan or site-specific level of analysis. The Methods of Analysis sections under each resource heading in Chapter 4 of the PRMP/FEIS contain assumptions that appropriate BMPs will be used to reduce the impacts of the various management actions under each alternative. The BMPs and their applications are discussed in Appendix 15 in the PRMP/FEIS.

In regard to phased development, requiring drilling activities to occur in a “staged or phased” manner within the context of an RMP alternative is not a reasonable alternative. Policy dictates that public lands be kept open to mineral exploration and development, unless closure or restriction is mandated by Congress or can be justified in the national interest (BLM Manual 3031.06A). The current leasing system has been in place, with minor modifications, for several decades. Although “staged” development may be applied in a limited area where leases are set to expire, its application to the public lands in general would require a complete overhaul of the current leasing system and would be outside the scope of the Rawlins PRMP/FEIS. A major problem with respect to the use of “staged” development is the potential violation of lease rights.

Issue Number 233: PP-WY-Rawlins-08-89
Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“In its response to comments, BLM argued that the operational limits of s-turn directional drilling in the Wamsutter field are a 6,200-foot vertical displacement before equipment limits are reached. DEIS Comments and Responses at Row 1492. We assume the BLM meant ‘horizontal displacement’ rather than ‘vertical displacement,’ as ‘vertical displacement’ is not a commonly used term in the context of directional drilling. The BLM uses this limitation to argue that the proposal in the Western Heritage Alternative of spacing wellpads 3 miles apart is not feasible to allow maximal extraction of oil and gas resources. However, using BLM’s figure of 6,200 feet of horizontal displacement, wells could be spaced 2.35 miles apart (with wellbores from adjacent pads able to touch each other - which of course one would never want to have happen from a safety perspective). According to BLM’s own analysis, it would be reasonable and feasible to impose such a surface spacing limitation. The agency should therefore have made a good faith effort to consider such a well-spacing limitation in at least one alternative, yet it failed to do so.”

Response:

The adequacy of the reasonable range of alternatives for the PRMP/FEIS is addressed above. The protester’s assertion that the 3-mile oil and gas drilling surface spacing alternative proposed in the Western Heritage Alternative is a reasonable and feasible alternative is not supported by the technology and the experience of the gas industry experts. The history of two directional drilling tests is adequately summarized in the comment response referenced by the protester, found on page A38-87 of the PRMP/FEIS. As indicated on p. A38-87, the Union Pacific Resources Company, in drilling 17 wells, concluded that the average horizontal reach of wells which could be achieved was about 1,425 feet. The other study referenced by the Biological Conservation Alliance, based on drilling of 54 directional wells, concluded that it is generally not feasible to extend laterally more than about 1,300 feet horizontally from the entry point to the bottom-hole location based on subsurface factors associated with the production zones.

The 6,200-foot limitation to which you refer is the mechanical limit posed by the strength of the drill pipe and the maximum possible directional angle of 50 degrees. The line following this sentence in the comment response, relating to the 6,200 foot limitation, states that, “...Even if the well could be drilled it would be highly uneconomical at current reserve estimates and gas prices because the additional drilling costs would be higher than normal.” Further in the comment response, in reference to the Jonah Field directional drilling test, the BLM states, “It is generally not feasible to extend out more than about 1,300 feet laterally from the initial entry point to the bottom hole location based on depth of, and thickness of, target production zones.” Other factors limit actual directional well horizontal reach to approximately 1/4-mile (on average) as indicated in the studies submitted by the protester as attachments to comments submitted on the DRMP/DEIS. Directional drilling technology cannot be used in all situations, but it has been used in the Wamsutter area, and application of this technology is expected to continue into the future. For the reasons described in Appendix 38 (p. A38-87) and elsewhere in this protest response report, the consideration of an alternative that limits surface spacing across the entire planning area is not reasonable.

Issue Number 234: PP-WY-Rawlins-08-89
Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“One of the principal failures of the Rawlins RMP EIS is its failure to take a hard look at the impacts of actions that will be approved or governed under the plan (including but not limited to oil and gas and leasing, oil and gas and coalbed methane exploration and development, wind energy development, siting of communication sites, transmission lines, and pipeline corridors) on other resources and land uses in the planning area, most particularly wildlife, watersheds, wilderness, and recreation.”

Response:

In Chapter 4 of the PRMP/FEIS, the BLM has provided an adequate and reasonable analysis of the potential environmental consequences of the Proposed Plan (alternative 4) and other alternatives. Subsequent NEPA documents will provide analysis of the direct, indirect and cumulative impacts of specific projects or programs that implement this plan. The Chapter 4 impact analysis provided sufficient detail to estimate and describe the physical, biological, economic, and social effects of implementing each alternative considered in detail in the PRMP/FEIS. The analysis adequately describes the direct, indirect, and cumulative impacts of each alternative in order to determine the best mix of potential planning decisions to achieve the goals and objectives (BLM Land Use Planning Handbook, H-1601-1, III(A)(6)).

Issue Number 235: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The FEIS fails to take a hard look at CBM development impacts on methane seeps.”

Issue Number 236: PP-WY-Rawlins-08-92

Individuals: Jim and Carol States

Issue Excerpt Text:

“Inadequate Investigation of Unplanned Methane Releases to the Atmosphere. . . . Development should be halted while this phenomenon is investigated. Otherwise huge percentages of the gas resource could be lost to the atmosphere, earning no revenues and contributing significantly to global warming.”

Response:

The BLM does not expect that Coal Bed Natural Gas (CBNG) development would lead to increased seepage of methane from natural seeps. While methane gas could escape up-structure at outcrops if geologic formations are steeply dipping, the beds are not uniformly oriented in this manner and some formations are near horizontal in their orientation. The gas typically escapes vertically from various geologic formations using any pathway that it can: through faulted areas, along bedding planes, up drill holes or any areas where pore space in the rock is connected vertically allowing upward migration of the gas.

As stated in the Rawlins PRMP/FEIS, “the development of CBNG would reduce the hydrostatic pressure in coal seams by withdrawing water. The CBNG development would lower water levels and hydrostatic pressure in underground systems geologically connected to the producing formations” (refer to pp. 4-412 of the PRMP/FEIS). A potential exists for increased or decreased natural gas migration updip and along conduits. This pressure reduction has the possibility of increased or decreased methane seepage, as well as unknown potential impacts to vegetation, water quality and other resources. Because there could be varying tendencies of the natural gas

to rise to the surface through different pathways, the BLM will respond on a case-by-case basis implementing site specific mitigation as monitoring and evaluation can link pressure reductions to gas seepage (e.g., if the gas seepage is associated with an abandoned well, the BLM can attempt to get the well plugged to prevent seepage).

The Record of Decision will clarify this issue in the Water Quality, Watershed, and Soils section (p. 4-412, 4th paragraph of the PRMP/FEIS) to indicate that the withdrawal of formation waters is expected to reduce hydrostatic pressures in the geologic formations that contain natural gas. The BLM does not expect that CBNG development will lead to increased seepage of methane from natural methane seeps. However, where increased methane venting could occur, it may locally kill vegetation, affect water quality, and be an increased hazard if the gases are vented near an ignition source.

Issue Number 237: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“It is arbitrary and capricious and an abuse of discretion for the BLM to refuse to consider two-track vehicle routes for primary wellfield access when other Federal agencies with similar authorities and multiple-use mandates are already practicing this environmentally preferable method of development.”

Response:

Existing roads and trails are utilized for access to well pads and related facilities whenever possible. As indicated in Appendix 20, during the onsite evaluation conducted for permitting of wells and related facilities, an evaluation of the operator’s plan involves the opportunity to lessen environmental impacts (refer to p. A20-7). The evaluation of the operator’s plan includes the re-routing of access roads to follow existing roads and trails in order to reduce the amount of surface disturbance associated with construction. Both the number and size of vehicles which utilize these access routes make it necessary to “engineer” roadways into these sites, as opposed to utilizing existing two-track vehicle routes (refer to p. A38-80).

Issue Number 238: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM is required by the NEPA to consider their [green completions] implementation in at least one alternative.”

Response:

The adequacy of the reasonable range of alternatives for the PRMP/FEIS is addressed above in the *NEPA* section of this report. The “green completions” that you refer to consists of proprietary technology developed by British Petroleum (BP), which is also available to other companies. Current Federal regulatory standards give the operators 90-days to finish completion operations on a producing well, during which time there are no limits placed on how much gas they can flare. The regulations at 43 CFR § 3162.7 (d) indicate that the operator is liable for gas

lost or wasted due to negligence or failure to comply with regulatory standards after the well is completed, put online, and subject to measurement using meters. Companies who acquire the new technology can use it in their completion operations, but there is currently no Federal regulatory standard requiring the use of “green completions.” The use of “green completions” is thus voluntary on the part of the individual operators and cannot be mandated by the BLM. As such, this was not a reasonable alternative to be considered.

Issue Number 239: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“It is important to note that Healthy Rangeland standards apply not only to permitted livestock grazing activities, but also to oil and gas development and other BLM permitted land uses. See, e.g., DEIS Comments and Responses at 2492, and see FEIS at 8-1. We are concerned that the BLM’s proposed plan does not meet the requirements for many types of big game and BLM Sensitive Species.”

Response:

Between the DRMP/DEIS and the release of the PRMP/FEIS, Table 2-1 was changed to add a statement to *all* resources and programs that “the *Standards for Healthy Rangelands*, as identified in Appendix 8, apply” (refer to p. 2-2). Thus, these Standards and Guidelines apply to wildlife habitat. Oil and Gas activities will include the implementation of BMPs to minimize impacts from development, protecting big game crucial winter range and maintaining rangeland health. The PRMP/FEIS states, “Incorporation of BMPs (Appendices 13, 14, 15, and 19) and other management actions (biological, chemical, mechanical, and fire treatments) to achieve standards for healthy rangelands would maintain or improve health, vigor, structure, and diversity of vegetation communities. Any improvement in vegetation communities would improve overall wildlife habitat condition. Effects to wildlife include improved condition, increased fecundity rates, and overall fitness” (refer to p.4-461).

Issue Number 240: PP-WY-Rawlins-08-92

Individuals: Jim and Carol States

Issue Excerpt Text:

“With regard to leasing in the Upper North Platte Valley, for all the reasons given in our attached letter of November 14th and reasons given in the attached protest of the Wyoming Outdoor Council (for which Jim is a member of the Board of Directors), we ask that the proposed parcels be administratively withheld from leasing for the life of the proposed Rawlins RMP. This decision should be made part of the RMP.”

Response:

The Approved Plan will retain the Upper North Platte Valley as open to oil and gas leasing with appropriate stipulations. The BLM will coordinate with WGFD as site-specific plans are developed and considered to incorporate up to date information. Additional information on site specific planning and implementation is also addressed above.

Issue Number 241: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The RMP appears to make decisions intended to affect a taking of these existing leases or to create regulatory obstacles to their development, without fully disclosing the economic loss to the communities and lessees, if these leases cannot be developed. . . . The RMP does not address all of the required elements in a Section 204 report. It fails to document the impacts on private and state lands and existing leases.”

Response:

The application of a Section 204 report to oil and gas leases in the PRMP/FEIS is addressed above in the *FLPMA* section of this report. The PRMP/FEIS does not include decisions intended to take away existing lease rights and the BLM does not have the authority to create regulatory obstacles that are inconsistent with Federal law. As noted in a previous response, a Federal mineral lease does not constitute a Section 203 FLPMA land sale and a closure to leasing is not the same as a Section 204 FLPMA withdrawal—and so there is no need to complete a Section 204 report. Table 4-3 shows the economic impacts associated with federal, state, and private lands across all alternatives for oil and gas development (refer to p. 4-191). Effects of proposed mitigation on existing and future leases, as indicated by associated changes in petroleum production, is discussed and summarized for each alternative in Chapter 4 (refer to pp. 4-97, 4-100, 4-106, and 4-111).

Issue Number 242: PP-WY-Rawlins-08-90

Organization: Devon Energy Production Company

Issue Excerpt Text:

“BLM’s proposed management action is also inconsistent with existing federal laws and may violate Devon’s valid existing lease rights...as development operations are proposed in the future, the BLM cannot attempt to impose stipulations or conditions of approval on Devon’s existing leases that are inconsistent with its contractual rights.”

Response:

The BLM will not impose new stipulations to existing leases. New stipulations developed out this planning effort will apply only to new leases or leases that have expired and are subsequently re-leased, if interests have been expressed.

The regulatory requirements, however, for operating rights owners and operations at 43 CFR § 3162.5-1(a) state: “[t]he operator shall conduct operations in a manner which protects the mineral resources, other natural resources and environmental quality. In that respect, the operator shall comply with the pertinent orders of the authorized officer and other standards and procedures as set forth in the applicable laws, regulations, lease terms and conditions and the approved drilling plan or subsequent operations plan.”

It is also BLM policy to consider identifying potential conditions of approval and/or restrictions as part of the land use planning process (H-1601-1: Land Use Planning Handbook, Appendix C, pages 23 to 24). The new management actions, BMPs, and mitigation measures developed as a

result of this planning effort are consistent with policy and will be considered on a site-specific basis to applications for permit to drill (APDs) on existing leases as conditions of approval as long they do not render the recovery of oil and gas, on the lease as a whole, infeasible or uneconomic.

Issue Number 243: PP-WY-Rawlins-08-93

Individual: Dwayne M. Meadows

Issue Excerpt Text:

“The RMP incorporates into the environmental baseline the Atlantic Rim Natural Gas Field Development Project ("Atlantic Rim Project"), as well as certain actions recently undertaken by BLM to implement the Atlantic Rim Project. However, BLM violated the National Environmental Policy Act ("NEPA"), 42 U.S.C. 4321 *et seq.*, by irreversibly and irretrievably committing resources within the Atlantic Rim to oil and gas development *prior to* completion of the ongoing environmental analysis supporting revision of the Rawlins RMP, which will govern activities in the Atlantic Rim and surrounding area...By finalizing the Project ROD *before* the Rawlins RMP, BLM effectively precluded any alternative uses for the Atlantic Rim that might otherwise have been considered as part of the Rawlins RMP NEPA process.”

Response:

The existing oil and gas leases in the Atlantic Rim Natural Gas Field Development Project (Atlantic Rim project) area were approved under the existing Great Divide Resource Management Plan. The BLM Land Use Planning Handbook provides the following guidance in regard to making decisions during an RMP revision or amendment, “Existing land use plan decisions remain in effect during the amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use. Land use plan decisions may be changed only through the amendment or revision process” (refer to H-1601-1, Status of Existing Decisions During the Amendment or Revision Process).

The BLM policy in IM-2001-191 provides that, “BLM will continue to process site-specific permits, sundry notices, and related authorizations on existing leases in an expeditious manner while ensuring compliance with NEPA and other laws, regulations, and policies. The BLM has the authority and discretion to condition its approval of proposed actions (APDs and other site specific activities) with reasonable measures (including relocation, redesign or delays in the proposed action) so as to reduce the effect of actions on other resource values and uses, consistent with the lease rights granted (see 43 CFR § 3101.1-2). That is, the BLM can use its authority and discretion to condition its approval of proposed actions to not constrain alternatives under consideration in a RMP revision or amendment consistent with the lease rights granted.” The BLM continues to comply with existing regulatory and policy guidance associated with its permitting activities.

Issue Number 244: PP-WY-Rawlins-08-93

Individual: Dwayne M. Meadows

Issue Excerpt Text:

The new guidance from BLM will make it easier to waive protections and includes a new policy implementation that now verbal requests can be approved (BLM IM 2008-032). The potential effects of BLM IM 2008-032 stipulations are not addressed in any alternative of the Rawlins RMP FEIS.

Response:

BLM Washington Office IM-2008-032 does not mention anything about the ability to grant oral approvals for conducting development activities. It does indicate that an exception, waiver, or modification cannot be approved unless (1) the authorized officer determines that the factors leading to its inclusion in the lease have changed sufficiently to make the protection provided by the stipulation no longer justified; or (2) the proposed operations would not cause unacceptable impacts. Appendix 9 of the PRMP/FEIS (pp. A9-1) reaffirms the authorization requirements contained in the IM-2008-032 and indicates that each request is considered a unique action which is analyzed and documented individually for RMP and NEPA compliance, processing includes coordination with the WGFD. Appendix 9 also contains several examples indicating how this guidance will be applied to varying situations.

Issue Number 245: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

FLPMA: “[the BLM] in fact has an obligation to ensure full environmental protection as a condition of the development of existing leases.”

Response:

The PRMP/FEIS provides protective measures for all areas within the planning area. The BLM has met all requirements of the FLPMA, including addressing environmental protection and the requirement to undertake actions necessary to prevent unnecessary or undue degradation of the lands.

The protester raises concerns about requiring full environmental protection as a condition of development for existing leases, such as by requiring the use of phased or paced development. The BLM adequately responded to this issue in Appendix 38, Response to Public Comments (refer to pp. A38-75, A38-103, A38-123, and A38-124).

Issue Number 246: PP-WY-Rawlins-08-107

Organization: Wyoming Outdoor Council

Issue Excerpt Text:

“BLM claims that ‘impacts to crucial habitats would be unavoidable under current BLM policy to foster oil and gas development.’ Page 4-534. This is simply a misstatement of what national policy is. National policy is to foster oil and gas development in full recognition of and implementation of many equally relevant and binding environmental protection laws and policies. . . . Many ‘unavoidable’ impacts of oil and gas development are in fact avoidable if the BLM would fully recognize and exert its retained rights. Because this is not recognized, the discussion of unavailable adverse impacts in the Rawlins RMP is insufficient and incorrect.”

Response:

As noted above, the FLPMA gives the BLM discretion to make decisions that satisfy a range of needs and choose an appropriate balance of resource uses, which involves tradeoffs between competing uses. In section 4.22 (Unavoidable Adverse Impacts), the BLM discloses the likely impacts of finding just such a balance, as represented in the alternatives considered. The alternatives considered during this planning process are reasonable and adequate in addressing these needs and balancing resource uses.

The BLM has proposed a variety of measures and best management practices to mitigate impacts to the environment to the extent practicable. However, in section 4.22, we are adequately and appropriately disclosing that not all impacts may be avoided as the Approved Plan is implemented and thus, are complying with our regulatory obligation to disclose such impacts. As explained above, more specific and detailed descriptions of unavoidable adverse impacts of actions implementing the Approved Plan, if any, will be included in future analysis when site specific proposals are brought forward. While the BLM states that impacts to crucial wildlife habitat would be unavoidable under the BLM's policy of fostering energy development, we note that the impacts denoted in section 4.22 are unavoidable only to the extent the alternatives considered within this planning process reflect such policy.

Livestock Grazing

Issue Number 247: PP-WY-Rawlins-08-92

Individuals: Jim and Carol States

Issue Excerpt Text:

“[The] BLM concluded that eliminating livestock grazing from all public lands continues not to be a viable or necessary management option. We would offer that this conclusion is a black-or-white decision which reflects an agency bias in favor of grazing rather than a scientific conclusion.”

Response:

Public land livestock grazing and mineral development extraction are legitimate uses of public lands. As declared by Congress in Section 102 of FLPMA, “the public lands be managed in a manner that will...provide food and habitat for fish and wildlife and domestic animals” (refer to 43 U.S.C. § 1701(a)(8)). Additionally, “the public lands be managed in a manner which recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970” (refer to 43 U.S.C. § 1701(a)(12)).

Livestock grazing and minerals management will be managed in accordance with existing laws, regulations, and policies including, but not limited to, the General Mining Law of 1872, as amended; the Minerals Leasing Act of 1920; the Taylor Grazing Act of 1934, as amended; the Common Varieties Act of 1947; and the FLPMA. In accordance with 43 CFR § 4180, the BLM will manage the public rangelands in accordance with the Wyoming Standards for Healthy Rangelands as identified in Table 2-1 of the PRMP/FEIS (refer to pp. 2-32 and 2-33). The BLM works closely with livestock permittees, the mineral industry, and the interested public, to

determine the most appropriate methods to achieve the Standards for Healthy Rangelands (refer to Appendices 8, 19, and 20 of the PRMP/FEIS).

The BLM is directed by the Taylor Grazing Act and its implementing regulations to allocate forage to uses of the public lands in RMPs and to determine and adjust stocking levels, seasons of use, and grazing management activities. Consequently, the BLM determined that it would not analyze in detail an alternative to entirely eliminate grazing. This is explained on p. 2-8 in the PRMP/FEIS. An alternative that proposes to close the entire planning area to grazing would be inconsistent with the Taylor Grazing Act, which directs the BLM to provide for livestock use of BLM lands; adequately safeguard grazing privileges; provide for the orderly use, improvement, and development of the range; and stabilize the livestock industry dependent upon the public range (refer to 43 U.S.C. §§ 315(a), (b)). In addition, the FLPMA includes livestock grazing as a principal or major use of public lands (refer to 43 U.S.C. § 1702(l)). As noted above, the BLM is challenged by the mandate to provide for multiple uses and given the discretion to make decisions to satisfy a broad range of needs. While multiple use does not require that all lands be used for livestock grazing, the complete removal of livestock grazing on the entire planning area would not meet the principles of multiple use and sustained yield.

Issue Number 248: PP-WY-Rawlins-08-14
Organization: Western Watershed Project

Issue Excerpt Text:

“The RMP and associated NEPA [National Environmental Policy Act] documents fail to address the needs of sage-grouse, pygmy rabbit and other Sensitive Species as part of private livestock grazing permitted on BLM lands . . . the documents completely fail to provide management direction for livestock grazing to protect these species and provide for their habitat requirements. This violates NEPA, the APA [Administrative Procedures Act] and FLPMA [Federal Land Policy and Management Act] and its implementing regulations. . . . Page 2 - 108 provides an objective to ‘maintain, restore, and enhance sensitive species habitat’ but it fails to provide the necessary details of how this objective be implemented. Such details spelled out within the document itself are critical for the implementation.”

Response:

The protections mandated by statute, regulation, and policy for sensitive species, supplemented by the management actions in the PRMP/FEIS, provide direction for the protection and management of sensitive species in the Rawlins planning area. The livestock grazing program as well as all other resources and resource uses include a management action to meet the Wyoming Standards for Healthy Rangelands.

The Wyoming Standards for Healthy Rangelands, Rangeland Health Standard Number 4 requires rangelands to be capable of sustaining viable populations and a diversity of native plant and animal species appropriate to the habitat. Habitats that support or could support sensitive species will be maintained or enhanced. As follows, the management of Wyoming rangelands will achieve or maintain adequate habitat conditions that support diverse plant and animal species. These may include listed threatened or endangered species as designated by the FWS, the BLM designated species of special concern, and other State of Wyoming designated sensitive species. The intent of this standard is to allow the listed species to recover and be delisted. Indicators for determining whether or not rangelands meet Standards include noxious weeds, plant species

diversity, age class distribution, population trends, habitat fragmentation, and all other indicators associated with the upland and riparian standards. The BLM has completed Standards and Guidelines assessments on 97% of the Rawlins Field Office and this information is available at the office or on the BLM website for public review. BLM biologists take part in the assessments. Information pertaining to site-specific sage-grouse habitat conditions can be found in each of the Standards and Guidelines Assessments.

Site-specific proposals for any action submitted to or developed by the BLM that will implement the Approved Plan will be subject to further environmental analyses and to additional analysis in compliance with other laws, such as the Endangered Species Act. Working in coordination and consultation with other local, State, and Federal agencies, these processes may result in additional site-specific mitigation requirements. This is specifically addressed in the PRMP/FEIS on pp. 2-103 and 2-109. Management direction is further identified in Appendices 1 and 15. As new technology and management opportunities change and new best management practices (BMPs) become available for implementation, adaptations or modification to management may occur.

Issue Number 249: PP-WY-Rawlins-08-14

Organization: Western Watershed Project

Issue Excerpt Text:

“The NEPA documents for the RMP failed to analyze any alternatives to the current levels of livestock grazing. This lack of appropriate alternatives for one of the major impacts to the resource area clearly violates NEPA.”

Response:

As stated in the *NEPA* portion of this report, as well as in the response to issue 247, the BLM considered a reasonable range of alternatives in the PRMP/FEIS in full compliance with the NEPA. Alternatives and management options considered but eliminated from detailed analyses are further explained in section 2.3.3 (refer to pp. 2-7 through 2-11). The differences between livestock grazing alternatives are contained in Table 2-1 on pp. 2-32 and 2-33 of the PRMP/FEIS.

Decisions regarding authorized livestock use, levels, and the terms and conditions under which they are managed are implementation decisions (H-1610-1, Appendix C, p. 15). The BLM assesses the condition of rangeland health, conducts monitoring and inventories, and evaluates this data on a periodic basis, normally on an allotment and/or watershed basis. After further NEPA analysis, changes to livestock management deemed necessary to meet or progress toward meeting management objectives are implemented through a formal decision-making process in accordance with 43 CFR § 4160. These decisions determine the appropriate levels of use by livestock at the allotment scale, in conformance with the RMP, to meet resource objectives and maintain or enhance land health.

Issue Number 250: PP-WY-Rawlins-08-89
Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM has also not considered an appropriate range of reasonable alternatives for livestock grazing in the proposed [Blowout penstemon] ACEC.”

Response:

The BLM identifies mitigation measures in the Proposed Plan that are adequate to reduce potential environmental consequences (refer to p. 2-108, pp. 2-95 through 2-96, Table 2-1). The FWS Biological Opinion for the Rawlins RMP (found in Appendix 14) provides 12 conservation measures to address potential impacts to the Blowout penstemon. These can be found in the BO’s Appendix I, pages 15 through 17. Measures 1A and 1B on page 15 of the appendix are provided to specifically address impacts from livestock grazing.

Issue Number 251: PP-WY-Rawlins-08-89
Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“A guideline for delaying livestock use in burned areas does not occur in Appendix 19 (see FEIS at A19-2 through 3), and we cannot locate such provisions elsewhere in the FEIS.”

Response:

On page A19-1 of the PRMP/FEIS, the BLM states the following: “Each new vegetation treatment would be evaluated and examined in relation to multiple use objectives, including analysis of pretreatment and/or post-treatment grazing control measures, which would ensure that the management objectives of the project are met. Pursuant to the policy of Wyoming BLM, prior to any vegetative treatment, a signed plan and/or agreement for grazing management would be in place. As a baseline, Wyoming BLM policy calls for deferment of livestock grazing on treated areas for two complete growing seasons, a period that may be adjusted to a lesser or greater time based on environmental conditions and/or management objectives consistent with Wyoming’s *Standards and Guidelines for Healthy Rangelands*” (refer to (WY-IM-2005-18). Additional clarification on the issue of treatments is contained in Appendix 38, which states, “While 2 years is the standard rest period post-fire or -burn, allowance must be made for longer or shorter periods. Determination of the length of rest is analyzed during the NEPA process for individual fires and burns” (refer to p. A38-40).

Issue Number 252: PP-WY-Rawlins-08-89
Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“In the absence of scientifically credible evidence that animal damage control activities actually depress the rate of livestock losses to predation, it is arbitrary and capricious to conclude that a significant loss of AUMs [Animal Unit Months] for sheep (or cattle) would occur.”

Response:

The BLM anticipates that elimination of predator control in Alternative 3 would contribute to the loss of sheep operations in the area. Predator loss is just one facet of sheep ranching that influences industry decisions. Conversion from sheep to cattle is an economic decision on the part of the livestock operators that includes the consideration of predation loss, market preference, workforce, etc. Ultimately, the loss of the remaining sheep operations within the planning area would effectively make the 20,000 to 30,000 sheep Animal Unit Months (AUMs) unavailable for use by other types of livestock. The AUMs that are currently available for use by sheep would not be converted to cattle because of environmental limitations (water availability, topography, different herbivory habits).

Predator control (coyotes as the principle target) is most effective when conducted immediately prior to livestock entering an allotment or pasture and is conducted to reduce the short term influence of predators on livestock during critical periods of the year. The majority of predator control actions conducted within the Rawlins planning area occurs just prior to and during sheep lambing when predator control is most effective. The protester describes the coyote social structure and the long term influence predation might have on an increase in breeding activity. Any increase in breeding would not result in an immediate increase in coyote numbers or predation on sheep lambing grounds in the short term. It is anticipated that the loss of usable sheep AUMs would primarily be the result of business decisions on the part of the livestock operators (that running sheep would be economically infeasible) rather than a result of the ineffectiveness of predator control actions (which could be documented scientifically).

Any partial conversions from sheep to cattle that could be accommodated have already occurred in most allotments. In addition, a high proportion of the remaining sheep allotments are in wild horse herd management areas; cattle and wild horses have a high degree of overlap in their forage selection. Additional requests for conversions will be evaluated for forage and topographic suitability on a case by case basis, and would likely result in limited conversions from sheep to cattle in order to meet the needs of wild horses, wildlife, and other resource values.

Issue Number 253: PP-WY-Rawlins-08-14

Organization: Western Watersheds Project

Issue Excerpt Text:

“We are shocked by the lack of discussion of the effects of livestock grazing on the spread of invasive species. . . . Given the effect of livestock grazing on the spread of cheat grass and its dramatic impacts species diversity, sagebrush and fire regimes, such information is critical to understand the impacts of permitted livestock grazing on the future of sage-grouse and others sagebrush dependent species in the field office. This lack of information violates NEPA and makes the current plan arbitrary.”

Response:

The current general locations and vectors for invasive species distribution, including cheat grass, are discussed in section 3.15.4 of the PRMP/FEIS (refer to p. 3-115). The impacts of livestock grazing on vegetation and invasive species distribution are discussed in Chapter 4.15. Therein, the BLM acknowledges the potential for the spread of invasive plant species and dominance by undesirable plants as a result of livestock use is acknowledged. Refer to pp. 4-373 and 4-374. The analysis is adequate for this broad, planning level analysis.

Table 2-1 of the PRMP/FEIS (under all resources) lists actions to meet the Wyoming Standards for Healthy Rangelands, as well as the goals and objectives of the Approved Plan (refer to pp. 2-19 through 2-112). For instance, a principle goal of the BLM's management of vegetation in the planning area is to control noxious and vegetation species (p. 2-93). As allotments are assessed for compliance with Standards for Healthy Rangelands and for consistency with the Approved Plan, any area not found in compliance or consistent will have appropriate actions taken before the next grazing season to bring the allotment back into compliance (refer to p. A8-3).

Issue Number 254: PP-WY-Rawlins-08-14

Organization: Western Watersheds Project

Issue Excerpt Text:

“The NEPA documents fail to provide any information regarding permittee compliance with permit terms and conditions, range improvement maintenance, compliance with utilization levels, trend and condition monitoring results, progress or lack thereof in improving I category allotments, the meeting of standards and guidelines, progress towards meeting standards and guidelines for allotments in which standards and guidelines have failed or other basic information regarding the management of livestock grazing within the field office. This information is critical to understand how livestock grazing has been managed within the field office and what impacts are occurring on the ground. This violates NEPA.”

Response:

Livestock grazing administration is managed in accordance with existing laws and regulations, including the grazing administration regulations found at 43 CFR § 4100. The general livestock grazing program is discussed and analyzed in Chapter 3 (refer to pp. 3-27 through 3-33). Data specific to grazing allotments are contained in Table A29-1 (refer to pp. A29-1 through A29-29).

The attainment of the Wyoming Standards for Healthy Rangelands is a goal for implementation of all resource and resource use decisions in the Rawlins PRMP/FEIS. A management action to meet these Standards is included for each resource and resource use in Table 2-1 in the PRMP/FEIS. The BLM works closely with livestock permittees and other interested publics, to determine the most appropriate methods for achieving Standards for Healthy Rangelands (refer to Appendices 8 and 19). The BLM will continue to assess grazing allotments and rangelands in general, for attainment of Standards for Healthy Rangelands in order to support grazing permit renewals.

Grazing systems and range improvements are activity plan-level actions designed to achieve the management goals for livestock grazing and to achieve and maintain healthy rangelands. Allotment specific information pertaining to livestock grazing administration, allotment management plans, and the Standards and Guidelines Watershed Assessments is available for review at the Rawlins Field Office.

Locatable Minerals

Issue Number 255: PP-WY-Rawlins-08-89
Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM has failed to take a hard look at impacts of uranium development.”

Response: Currently, there is no proposed, reasonably foreseeable development for uranium. Therefore, the impact of uranium development was not analyzed in the current PRMP/FEIS. If through exploration efforts, a proposal is presented to the BLM for large uranium development, an amendment to the Approved Plan may be warranted.

National Trails

Issue Number 256: PP-WY-Rawlins-08-28
Organization: Continental Divide Trail Society

Issue Excerpt Text:

“The State Director is incorrect in failing to assure that future road use along the CDNST [Continental Divide National Scenic Trail] will be managed so as not to substantially interfere with the nature and purposes of the trail. . . . While CDTS [Continental Divide Trail Society] has acquiesced in the location of the CDNST on primitive roads in the study area, we observed that if roads and traffic, and other development, should change the primitive character of the setting, this would ‘substantially interfere with the nature and purpose of the trail.’”

Response:

Motorized traffic has been allowed on the Continental Divide National Scenic Trail (CDNST) under the direction of the 1990 Great Divide RMP and will be allowed under the Approved RMP. Most of the trail falls within the OHV area designation of ‘limited to existing roads and trails,’ thus allowing for motorized use on the trail (refer to Map 2-5). The 1985 CDNST Comprehensive Plan (CDNSTCP) addresses the multiple Recreation Opportunity Spectrum (ROS) prescriptions along the trail. On page 57 of the CDNSTCP, the following direction is provided:

“In accordance with 36 CFR 1246 (a) and (b) motorized and other uses of existing trails and/or primitive roads which are selected as components of the CDNST system will continue where such use is provided for in the respective agency’s land and resource management direction for the area, including the use of snowmobiles operating on snow. . . . The presence or proposed location of the CDNST route *will not* [emphasis added] be an acceptable reason for prohibiting motorized or other specified uses in an area where such use was established prior to the formal location of the trail.”

Issue Number 257: PP-WY-Rawlins-08-28
Organization: Continental Divide Trail Society

Issue Excerpt Text:

“The State Director’s response is incorrect in failing to recognize that providing opportunities to view resource uses must not detract from the high quality recreational experience envisaged by the National Trails System Act . . . where the environment remains relatively unaltered.”

Response:

The Rawlins PRMP/FEIS will comply with the CDNSTCP (refer to p. 2-43 of the PRMP/FEIS). According to the CDNSTCP, other uses along the trail that will not substantially interfere with the nature and purposes of the trail and that were allowed at the time of designation by administrative regulations shall be permitted (as further provided by 16 USC § 1246 (c) and (j)). The CDNSTCP states that in no way will the trail designation prevent or determine other land use practices.

Issue Number 258: PP-WY-Rawlins-08-28

Organization: Continental Divide Trail Society

Issue Excerpt Text:

“The fact that oil and gas development is ‘not expected’ to reduce the desirability of recreation settings does not eliminate the need to provide appropriate protective measures should such development actually be proposed.”

Response:

Further environmental analysis will be required when site-specific proposals are brought forward. As these proposals are considered, consistency with the Approved Plan and the CDNSTCP will be determined. For proposals along or in the vicinity of the trail, the BLM will consider in its analysis the Visual Resource Management (VRM) class of lands outside of the ¼ mile buffer. Additional mitigation measures may be needed.

Issue Number 259: PP-WY-Rawlins-08-28

Organization: Continental Divide Trail Society

Issue Excerpt Text:

“[A]rea falls substantially entirely in the Semiprimitive Motorized ROS class. . . . The State Director’s decision is incorrect in failing to provide such assurance [hiking experiences will continue to be natural]... [The] 1/8 mile NSO [no surface occupancy restriction] on either side of the CDNST centerline, is entirely inadequate....”

Response:

Concerns in regard to the CDNSTCP Recreation Opportunity Spectrum prescriptions along the trail are addressed above (see response to issue 256). In addition, the CDNST will showcase current land management activities along the trail.

Issue Number 260: PP-WY-Rawlins-08-28

Organization: Continental Divide Trail Society

Issue Excerpt Text:

“The comprehensive management plan calls for BLM to regard the CDNST as a ‘high sensitivity level’ travel route. Such a route assuredly merits far more protection than the DEIS suggested (30 feet) or the proposed RMP provides (1/8 mile). Other high sensitivity level travel routes identified in the proposed RMP are four historic trails, for which adverse developments are restricted for a distance of two miles or the visual horizon....”

Response:

The DRMP/DEIS proposed a 30 foot buffer for the CDNST (refer to p. 2-44 of the DRMP/DEIS). This was modified in the PRMP/FEIS to a 1/8 mile wide corridor on either side of the trail for a total corridor of 1/4 mile wide, along all 82 miles (refer to Table 2-1, p. 2-44 of the PRMP/FEIS). The management objectives in the PRMP/FEIS are in conformance with the goals and objectives of the CDNSTCP (refer to p. 2-43 of the PRMP/FEIS).

Protections afforded the historic trails in the Approved RMP are designed to protect the historic integrity and maintain their National Register of Historic Places (NRHP) eligibility. No management actions that restrict development within two miles or the visual horizon of historic trails is included in the Approved RMP (refer to pp. 2-74 to 2-76 of the PRMP/FEIS).

Issue Number 261: PP-WY-Rawlins-08-28

Organization: Continental Divide Trail Society

Issue Excerpt Text:

“We raised concerns measures [sic] that might be adopted to ensure the availability and potability (after treatment) of water. We protest the State Director’s failure to recognize the importance of this issue.”

Response:

As established in the CDNSTCP, “At many places, in the mountains as well as in the desert areas along the Continental Divide, water can be quite scarce. The public has strongly advocated that the user be expected to accept these as natural conditions and be prepared to cope with the situation. However, it is also felt that the agencies have a responsibility to provide adequate information to the user to make him aware of what to expect in regard to the availability of water” (refer to p. 61 of the CDNSTCP). The BLM has been and will continue to be involved with spring developments along the trail for other uses such as livestock and wildlife purposes. Currently, one such project is in progress at Fish Pond Springs approximately eleven miles north of Rawlins. The PRMP/FEIS did not modify the CSNSTCP.

Issue Number 262: PP-WY-Rawlins-08-28

Organization: Continental Divide Trail Society

Issue Excerpt Text:

“National Trails System Act warrants a listing [in Appendix 39].”

Response:

Appendix 39 is not an all-inclusive list of statutes, limitations, and guidelines, but is a representative list of the types of laws and policy that guide the management of the public land. Additional laws, regulations, and policies are identified in the various appendices for specific resource programs (refer to p. A39-1). As a point of clarification, the BLM will denote in the Record of Decision that the National Trails System Act will be included in appendix 39.

Issue Number 263: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“It is reasonable to expect the BLM to have developed and presented a [geographic information systems] GIS-based viewshed analysis of the [Continental Divide National Scenic Trail] CDNST in the FEIS; the agency’s failure to undertake this analysis undercuts its ability to properly evaluate the magnitude of impacts to the viewshed of the CDNST, because it is unable to assess the proportion of scenic resources visible for the Trail that are protected by NSO or (conversely) open to industrial use. In this respect, the EIS violates the NEPA’s baseline information requirements.”

Response:

The protester expresses specific concerns relating to baseline information for the Continental Divide National Scenic Trail in the form of a GIS-based viewshed analysis. As a clear project proposal from which to initiate a viewshed analysis does not exist at the land use plan-level, a viewshed analysis of the trail would be of limited usefulness. Viewshed analyses require specific project information, including facility heights, extent, and number of facilities. Although GIS-based viewshed analysis was not appropriate for the Rawlins land use plan effort, GIS-based analysis may be conducted in the future for site-specific project proposals, as appropriate. The management actions identified in the Proposed Plan are adequate to protect the CDNST and reduce the visibility of developments and structures to meet the goals and objectives for the trail.

Issue Number 264: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“In order to fulfill the NEPA’s range of reasonable alternatives requirements, the BLM needed to consider at least one alternative that protects the entire viewshed of the CDNST (at least BLM lands and minerals portions thereof) from industrialization.”

Response:

The adequacy of the reasonable range of alternatives and the protections for the CDNST in the PRMP/FEIS are discussed above. Other uses along the CDNST that will not substantially interfere with the nature and purposes of the trail and that at the time of designation are allowed by administrative regulations shall be permitted. The CDNSTCP states that in no way will the CDNST prevent or determine other land use practices. The CDNST will showcase current land management activities along the trail. Based on the guidance in the CDNSTC that provides for authorization of surface disturbing activities and surface facilities, consideration of an alternative to preclude development within the entire viewshed of the CDNST was unreasonable.

Paleontologic Resources

Issue Number 265: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“In failing to provide at least one alternative that requires the reasonable (and indeed commonsense) mitigation measure of requiring field clearance by trained professional paleontologists for areas proposed for surface disturbance, the BLM has violated the NEPA’s ‘range of alternatives’ requirements.”

Response:

The adequacy of the reasonable range of alternatives and the protective measures in the Rawlins PRMP/FEIS are addressed above. It would not be reasonable to require surveys by professional paleontologists for all surface disturbing activities. The Rawlins Field Office encompasses areas ranging from little or no fossil potential to areas of high potential.

The Potential Fossil Yield Classification system establishes the known fossil potential of an area and became official BLM policy on October 15, 2007, (IM-2008-009) and provides guidance for determining whether to require field surveys by professional paleontologists. The management action for the Proposed Plan that addresses fossil classification is found in Table 2-1 in the PRMP/FEIS (refer to p. 2-41).

Recreation and Visitor Services

Issue Number 266: PP-WY-Rawlins-08-97

Organization: Union Telephone Company

Issue Excerpt Text:

“[T]he proposed designation of Jelm Mountain as an SRMA is arbitrary and capricious because...the BLM failed to follow the public notice and participation requirements under the Federal Land Policy and Management Act of 1976 ("FLPMA") and the National Environmental Policy Act of 1969 ("NEPA").”

Response:

In further review of the primary issue raised by the protester, the BLM grants this protest. The SRMA designation decisions added between the release of the DRMP/DEIS and the publication of the PRMP/FEIS have been remanded. Although the management actions added specifically under the Jelm Mountain SRMA do not substantially change the impacts to other resources or resource uses, a modification will be provided in the ROD specifying that the Jelm Mountain, Pedro Mountains, Laramie Plains Lake, and Rawlins Fishing areas will not be designated as SRMAs in the Approved Plan and instead will be managed as analyzed in the DRMP/DEIS. This modification will also be reflected in the published Rawlins Approved Plan. Remanded decisions will be reevaluated by the BLM Wyoming State Office and BLM Rawlins Field Office. In the event that the BLM decides to pursue an SRMA designation not previously analyzed, additional NEPA analysis will be performed and the opportunity for public

participation will be provided. Unless otherwise specified in the Record of Decision, all other portions of the Proposed Plan are upheld and approved by the State Director.

Issue Number 267: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The Shirley Mountains SRMA should be managed as an ‘exclusion area’ for wind energy development, rather than an ‘avoidance area’ as proposed under the new plan... Yet the BLM did not even consider this area as an ‘exclusion area’ for wind energy development under any alternative.”

Response:

The wind energy development exclusion areas in the PRMP/FEIS are those special designations carried forward from the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM-Administered Lands in the Western United States (2005) (refer to p. 2-145). The “exclusion areas” include ACECs, wilderness areas, WSAs, historic trails, among others. SRMAs were not included in the programmatic wind energy Record of Decision as “exclusion areas.”

Issue Number 268: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Will all visitors to the area...be required to possess a permit, or does this apply only to commercial operations? This point needs to be clarified in the final plan.”

Response:

The only recreational permits that will be required for the area are Special Recreation Permits (SRP). There are five types of special recreation permits: (1) commercial use; (2) competitive use; (3) vending; (4) special area use; and (5) organized group activity and event use. The SRPs are authorizations which allow specified, and often time restricted, recreational uses of the public lands and related waters. They are issued as a means to manage visitor use, protect natural and cultural resources, and to achieve the goals and objectives of the Rawlins Field Office recreation program as outlined in the PRMP/FEIS.

Issue Number 269: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM must include a comprehensive analysis of recreation which includes all forms engaged in within the Rawlins Field Office, not just the limited set examined in the FEIS. This analysis must include input from non-motorized user groups in order to more fully and accurately represent the contribution of all types of recreation in the planning area.”

Response:

Recreation-related social and economic impacts are a function of projected changes in demand for various types of recreation within the planning area, as described in section 4.11 of the PRMP/FEIS. Table A35-6 describes the assumptions from the recreation analysis as utilized in the socioeconomic analysis. Non-motorized user groups are accounted for under other Recreation uses in Table A35-6 (refer to p. A35-8). Section 3.11 of the PRMP/FEIS addresses the existing recreational environment within the planning area, including the recreation resources, the levels of use of these resources, and use trends (refer to pp. 3-51 through 3-55). Table 3-9, *Recreational Management System Information for Special Recreation Management Areas Within the RMPPA*, lists the various recreation opportunities (backpacking, bicycling, camping, fishing, OHV use, etc.) and the number of participation days occurring for each of the existing SRMAs. These are recreation opportunities that are all considered and accommodated through the Recreation Program goals and objectives addressed in Table 2-1 of the PRMP/FEIS (refer to pp. 2-42). In addition, one of the recreation management actions clearly states that the entire planning area is open to dispersed recreation (all the various forms of recreation opportunity) with the exception of specific areas that must be excluded to protect public health and safety or special resource values. The PRMP/FEIS includes a specific resource section for OHV use due to the numerous opportunities available as a result of the extensive road net within the planning area (refer to pp. 2-38 through 2-39).

Issue Number 270: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Documentation for recreation analyses methods is not provided. Responding to a request for documentation on how the BLM made its determination of resident and non-resident recreation visits, the BLM promised that, ‘A narrative will be added to Appendix 35 to answer this question’ (p. A38-149). No such explanation can be found in Appendix 35.”

Response:

A combination of field counts, fee payment envelopes, and information supplied from the game and fish license sales were used to determine the visitor numbers and residency. BLM staff made in-field contacts with individual visitors as well as completed license plate “surveys” for information about residency. As stated in Appendix 35, “Residents were considered as any individual living in the four-county study area, whereas nonresidents live outside the four-county region. Residents of the study area associated with big game hunting were determined by evaluating zip codes of hunters that applied for licensees from the WGFD within the relevant hunting areas. Residents and nonresidents participating in OHV and other dispersed use were based on observations of BLM staff for this area” (refer to p. A35-7).

Issue Number 271: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The provisions of the Adobe Town Dispersed Recreation Use Area (“DRUA”) (FEIS at A37-1) are quite confusing...The ROS mapping for the Adobe Town DRUA contains a significant error...It is clear from the map that ‘front country’ ROS areas are determined by buffering existing vehicle routes...Designating this route as a ‘front country’ area would be irresponsible because it would attract vehicle use to a route that is impassable, resulting in resource damage and unnecessary and undue degradation to the area.”

Response:

After further review of the ROS criteria for ‘front country’ classifications, the area specified by the protester does not meet the ROS criteria for this classification. A clarification will be made in the ROD that removes the front country status along the boundary road and revises Maps 2-58 and 2-59. This clarification results in an expansion of the middle country designation and a contraction of front country designation adjacent to the Adobe Town WSA. The four wheel drive route along the southeast edge of the Adobe Town WSA will remain open to motorized vehicles. The final status of the route in question will be determined during Travel Management Plan development. Travel management planning for the entire planning area will take place with public input within five years of the approval of the Proposed Plan in compliance with the NEPA (refer to pp. A21-1 through A21-2)

The adequacy of the protective measures in the Rawlins PRMP/FEIS is addressed above.

Issue Number 272: PP-WY-Rawlins-08-93

Individual: Dwayne M. Meadows

Issue Excerpt Text:

The RMP offers no plan for mitigating the loss to hunting and other recreational resources. The Executive Order 13443, Facilitation of Hunting Heritage and Wildlife Conservation Sec 2c. states that federal agencies must, "Manage wildlife and wildlife habitats on public lands in a manner that expands and enhances hunting opportunities, including through the use of hunting in wildlife management planning."

This [excerpted statements from Chapter 4 of the PRMP/FEIS] is an apparent violation of EO 13443 and needs to be addressed before the issuance of any Record of Decision document.

Response:

The BLM has complied with the Executive Order 13443, Facilitation of Hunting Heritage and Wildlife Conservation as well as the BLM’s guidance provided in IM-2008-006, Implementation of Executive Order 13443, Facilitation of Hunting Heritage and Wildlife Conservation.

As explained above, FLPMA gives the BLM discretion to make decisions that satisfy a range of needs. The BLM’s multiple use mandate does not require that all uses be allowed on all areas of the public lands. That would preclude any kind of balance. The purpose of the mandate is to require the BLM to evaluate and choose an appropriate balance of resource uses, which involves tradeoffs between competing uses.

In accordance with the FLPMA, Executive Order 13443, and BLM IM-2008-006, the management goals in the PRMP/FEIS ensure the continued availability and accessibility of outdoor recreational opportunities as well as manage recreation resources to accommodate existing and future uses (refer to p. 2-42). The PRMP/FEIS provides opportunity for a wide variety of recreational uses, including hunting.

Renewable Energy

Issue Number 273: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM fails to take a hard look at impacts of wind energy development.”

Response:

The BLM has provided an adequate analysis of the environmental impacts of wind energy development. Specifically, the Chapter 4 impact analysis provided sufficient detail to estimate and describe the effects of wind energy development within the planning area. The management action for wind energy development in Table 2-1 of the PRMP/FEIS was the basis for all impact analysis in Chapter 4. Proposals for location of wind energy development will be considered on a case-by-case basis and will be subject to a site-specific NEPA analysis (refer to p. 2-29, Table 2-1). Areas with important resource values will be excluded or avoided (refer to pp. 2-29). Appendix 33 includes the surface disturbance anticipated over the life of the plan for each new 1,000 turbine wind energy project (refer to pp. A33-3 through A33-4). Reasonably foreseeable development estimates in Appendix 33 are provided for analysis purposes only.

Issue Number 274: PP-WY-Rawlins-08-98

Organization: Blake Sheep Company

Issue Excerpt Text:

“The proposed RMP conflicts with the Energy Policy Act of 2005 which directs federal agencies to increase the production of renewable energy from federal lands.... Map 2-33 establishes large areas of the Rawlins Resource Area as ‘avoidance areas’ for wind energy development. Ironically much of this avoidance area overlaps with lands designated as having outstanding and superb potential for wind energy development as shown on Map 3-2.”

Response:

The Energy Policy Act of 2005 addresses the Nation’s need for ensuring greater security and affordability in our energy supply while also protecting the environment. Any steps that the BLM takes to implement the Energy Policy Act will continue to include thorough environmental review and analysis. While the Energy Policy Act does encourage the increased consideration and development of renewable energy resources, there is nothing in the Energy Policy Act that changes the balancing of competing resource use requirements of the FLPMA and additional resource protection laws such as the ESA, the NHPA, the CAA and the Clean Air Act.

In applying the BLM’s multiple use mandate to the RMP, various resource values discussed below were analyzed to best meet the present and future needs of the American people. Uplifted topography that provides the land patterns conducive to higher wind values also provide the elements necessary for increased precipitation which increases vegetation production; variety of habitat types; and a diversity of wildlife species. In addition to the flora and fauna resource values, areas of uplifted topography also exhibit the topographic features and variation in land

patterns and vegetation complexes that provide variety in the elements of form, line, and color that influence a viewer's perception of high value visual resources.

Public lands in the vicinity of Blake Sheep Company private lands exhibit all of these features and contributed to the designation of the Jep Canyon ACEC in the existing Great Divide RMP and the Jep Canyon WHMA in the PRMP/FEIS (the designation changed due to reevaluation of the area and the influence of the checkerboard land pattern on manageability of the area). The Jep Canyon WHMA goals are to maintain, restore, and enhance raptor nesting habitat and the productivity of nesting raptor pairs and to pursue opportunities for partnership and cooperative management with adjacent property owners (refer to p. 2-60 of the PRMP/FEIS). It is the direct conflict between wind energy development and raptor nesting habitat combined with nesting productivity enhancement goals that the Jep Canyon WHMA is designated as an "avoidance area" on Map 2-33 and not for visual resource management Class II, as suggested by the protester.

Issue Number 275: PP-WY-Rawlins-08-98

Organization: Blake Sheep Company

Issue Excerpt Text:

"Blake Sheep Company's property is located largely in the railroad checkerboard area. While we could certainly develop the wind resource on the deeded land, BLM cooperation will still be necessary in order to obtain rights of way across federal lands in the checkerboard. Moreover, power developers may not be interested in developing a wind energy project on Blake Sheep Company's deeded lands if turbines cannot be placed on adjacent federal sections to maximize the wind resource. We note that Map 2-33 is inconsistent in its acknowledgement of the checkerboard. For example, compare Map 2-33's depiction of Township 18 North, Range 91 West with the depiction of the lands in 17 and 18 North, Ranges 88, 89 and 90 West, which does not acknowledge the existence of the checkerboard fee ownership."

Response:

The depiction of the checkerboard land pattern on Map 2-33 in Township 18 North, Range 91 West (as well as checkerboard lands in Township 25 North, Ranges 80-81, for example) are, as mentioned by the protester, inconsistent with the presentation of other "management areas" within the checkerboard land pattern. This was an oversight during development of the PRMP/FEIS and will be clarified in the ROD. Other maps show the Upper Muddy Creek Watershed/Grizzly WHMA in its entirety (refer to Maps 2-9, 2-13 of the PRMP/FEIS). It was the BLM's intention to depict the exterior boundary of all "management areas" in their entirety to avoid the difficulty of depicting management area boundaries when the checkerboard land pattern was imposed over the area. It is clear in the PRMP/FEIS that the management decisions in the PRMP/FEIS only apply to public land and minerals. As stated in Chapter 1, "The Rawlins RMP will not include any planning and management decisions for areas where the land and minerals are both privately owned or owned by the State of Wyoming or local governments" (refer to Table 1-1, footnote 6 of the PRMP/FEIS). In addition, the Approved RMP will include larger-scale maps that will show only the public land surface included in each of the management areas.

Issue Number 276: PP-WY-Rawlins-08-98

Organization: Blake Sheep Company

Issue Excerpt Text:

“The glossary defines ‘avoidance areas’ as areas where rights of way would be strongly discouraged. It goes on to state that ‘authorizations made in avoidance areas would have to be compatible with the purpose for which the area was designated and not be otherwise feasible on lands outside the avoidance area.’ This text suggests therefore that BLM would be likely to deny a wind energy project even in the checkerboard on the theory that the development could occur elsewhere in the Rawlins Field Office. However, as BLM should be aware, the wind energy resource is not homogenous throughout the Rawlins Field Office and a landowner with high value wind resource should be entitled to reasonably develop that resource notwithstanding intermingled federal lands.”

Response:

Wind development within “avoidance areas” in the checkerboard will be considered on a case-by-case basis in coordination with wind development proponents, the private landowner, the BLM, and other affected interests to form the most logical development plan within the checkerboard lands. The BLM understands the necessity to balance the need for alternative energy production with the loss in value for many other resource uses on lands supporting wind energy development projects. In addressing the protester’s specific concern as to the authorization of wind development activities within “avoidance areas,” the BLM has not precluded such authorizations from occurring in the Rawlins PRMP/FEIS.

The definition of “avoidance area” will be clarified in the Rawlins ROD to state, “Areas to be avoided which may be available for location of ROWs [right-of-ways] and Section 302 permits, leases, and easements with special stipulations or mitigation measures. For such authorizations, the area’s environmental sensitivity and other feasible alternatives will be strongly considered.”

Issue Number 277: PP-WY-Rawlins-08-98

Organization: Blake Sheep Company

Issue Excerpt Text:

“Page 4-404 of the proposed plan does state that wind energy facilities would be ‘intensively managed’ if they had to be located in avoidance areas. The plan should provide guidance for when BLM will relent and allow wind energy development in avoidance areas.”

Response:

The clarified definition of “avoidance area” is specified above. The revised definition provides for necessary management flexibility to consider any wind energy proposal through the NEPA process and allow the alternative formulation process and environmental analysis to guide the decision. The Rawlins PRMP/FEIS provides for the opportunity for wind development, with the understanding that the NEPA process will be appropriately completed and a decision made based on the outcome of the analysis. Even with all of the “intensive management” mitigation measures, best management practices, and stipulations available, it is not guaranteed that a wind energy proposal will be approved within an avoidance area that is outside of the checkerboard. Within the checkerboard land pattern, the NEPA will provide the opportunity for the BLM to assess various alternatives. Understanding that the BLM would not preclude a wind energy proposal on private land within the checkerboard, the BLM could consider an alternative that

only approves ROWs across the public land or could consider an alternative that approves both ROWs and wind turbines on public land. The environmental analysis and consideration of the goals and objectives for the area would dictate the outcome of the analysis and the eventual decision.

Issue Number 278: PP-WY-Rawlins-08-104

Organization: Shell WindEnergy

Issue Excerpt Text:

“It is not clear from the FEIS [Final Environmental Impact Statement] what specific conditions or “intensive management” might be implemented to allow development of wind energy resources in Class II areas. [Shell WindEnergy] suggests that BLM discuss specifically how wind energy development will be permitted in avoidance areas and not impede development of this important renewable resource, particularly in areas where the wind energy potential is excellent or outstanding.”

Response:

According to the Record of Decision for “Implementation of a Wind Energy Development Program and Associated Land Use Plan Amendments” (December 2005), the BLM will consider the visual resource values of the public lands involved in proposed wind energy development projects, consistent with BLM-VRM policies and guidance.

The VRM classes represent the degree of acceptable visual change within a characteristic landscape. A VRM class is based on the physical and sociological characteristics of any given homogeneous area and serves as a management objective. A VRM class II area:

- Retains the existing character of the landscape
- Allows management activities to be seen; however, activities should not attract the attention of the casual observer
- Requires changes to repeat the basic elements of form, line, color, and texture found in the predominant natural features of the characteristic landscape
- Requires modifications to a proposal if the proposed change cannot be adequately mitigated to retain the character of the landscape.

The PRMP/FEIS establishes that areas with important resource values will be avoided or excluded in planning for new wind energy facility placement. In addressing the protester’s specific concern as to the authorization of wind development activities within “avoidance areas”, the BLM has not precluded such authorizations from occurring in the Rawlins PRMP/FEIS. Additionally, as previously noted, the definition of “avoidance area” will be clarified in the Rawlins ROD to state, “areas to be avoided which may be available for location of ROWs [rights-of-way] and Section 302 permits, leases, and easements with special stipulations or mitigation measures. For such authorizations, the area’s environmental sensitivity and other feasible alternatives will be strongly considered.” If it becomes necessary for facilities to be placed within avoidance areas, effects would be intensively managed (refer to p. 2-31, Table 2-1 of the PRMP/FEIS). Intensive management is defined in the *Leasable Minerals* section of this report (see response to issue 231 above).

Social and Economic Interests

Issue Number 279: PP-WY-Rawlins-08-60

Organization: Karen King

Issue Excerpt Text:

“The public health is at increased risk as the plan allows for doubling the amount of air pollution by the year 2023. Water quality threats, mental health problems and social ills associated with boom/bust development are not adequately researched in this FEIS.”

Response:

The potential impacts on socioeconomics from management actions are presented in Chapter 4 of the PRMP/FEIS (refer to pp. 4-189 through 4-203). The protester’s letter raises specific concerns about the long-term economic and social impacts of the oil and gas boom. The likely impacts of the “boom” and the “bust” cycle are also discussed in Chapter 4 (refer to pp. 4-510 through 4-512). This narrative includes long-term considerations for the region, such as the potential for substantial increases in tax revenues and royalty payments being offset by increased demand for housing, social services, law enforcement, infrastructure, and services addressing drug abuse as well as the consideration of anticipated custom and cultural changes likely to occur in the area and as a result of rapid oil and gas development.

Particulate matter (PM) is included in the air quality analyses contained in Appendix 4, Air Quality Impact Technical Support Document, (refer to Appendix 4, p. 11, Table A4-3). The Assumed Background Concentrations and Applicable Ambient Air Quality Standards and Prevention of Significant Deterioration (PSD) Increment Values are also included in Table A4-11 as well as information regarding background PM concentrations. Table A4-5 contains information on PM concentrations from BLM-administered land and Sulfur Oxide sources for 2003 (refer Appendix 4, p. 20). In addition, Table A4-6 contains information on PM concentrations from BLM-administered land and Sulfur Oxide (SO) sources for 2008 (refer to pp. Appendix 4, p. 20).

Under the CAA, the EPA sets limits on the allowable level of substances in the ambient (outdoor) air. This is intended to assure a healthful environment from air pollution. The WDEQ has been delegated authority from EPA, to manage air quality in the state. The WDEQ by law, evaluates air quality by taking actual measurements of airborne substances and, in some cases, modeling of the ambient air. For any activity which violates air quality standards, the WDEQ is empowered to take enforcement action against polluters. As a matter of public record, the WDEQ has aggressively pursued and successfully prosecuted violators of air quality standards.

One of the management objectives for surface water quality is intensive management of surface disturbing activities in watersheds contributing to water bodies on the Wyoming 303(d) impaired waters list (refer to pp. 2-98 through 2-99 and Appendix 13). Proposed projects above Class I waters will receive special consideration during the NEPA process to ensure that the proposed project actions do not degrade these water bodies beyond the uses specified. Each proposed project will be evaluated individually to determine the most appropriate BMPs to be implemented (refer to Appendix 13). The BLM reviews each individual proposed activity to

ensure that the potential non-point source pollution does not enter into Class I and/or 303(d) listed water bodies by applying appropriate BMPs and Conditions of Approval for each activity. Although the WDEQ and the State Engineers Office have jurisdictional authority over point sources and water rights respectively, the BLM is required under the NEPA to analyze impacts and require mitigation, as appropriate, from site-specific proposals. For proposed oil and gas development projects, we realize that surface runoff from roads and well pads is an issue when in the proximity of Class I and state-listed 303(d) water bodies and analyze the issue accordingly under the NEPA.

The BLM will adhere to State of Wyoming and EPA standards for water quality within its management authority. For example, Appendix 8 in the PRMP/FEIS describes specific guidance used to evaluate resource conditions according to the Standards for Healthy Rangelands. Standard 5 of the Standards for Healthy Rangelands calls for water quality to meet State standards (refer to p. A8-4). Additional information in the PRMP/FEIS describes methods for monitoring water quality from BLM-approved activities. Water quality conditions are presented in the PRMP/FEIS in section 3.17.2 and Appendix 11 (refer to pp. A11-14).

Issue Number 280: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“In order to adequately analyze the economic feasibility of requiring directional drilling, the BLM needs to document the operators’ project costs in the EIS.”

Response:

The BLM considers ‘directional drilling’ to be a BMP and not a specific provision of an alternative to be considered at the land use planning level. The BMPs need to be adapted to meet the site-specific requirements of a particular project as well as the local environment. Thus, BMPs are incorporated into site-specific project proposals and supported by site-specific environmental analysis. The Rawlins PRMP/FEIS does not mandate BMPs for particular actions at the land use plan level and instead provides a range of BMPs that will be applied, where appropriate, at the activity plan or site-specific level of analysis. The Methods of Analysis sections under each resource heading in Chapter 4 of the PRMP/FEIS contain assumptions that appropriate BMPs would be used to reduce the impacts of the various management actions under each alternative. The BMPs and their applications are discussed in Appendix 15 in the PRMP/FEIS.

Issue Number 281: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The analysis does not consider the economic benefits of natural amenities to local economies and therefore ignores the costs that oil and gas drilling will impose as a result of reduced natural amenities...The BLM should conduct a scientifically valid study of the nonmarket costs of these and other impacts.”

Response:

The potential impacts on socioeconomics from management actions are presented in Chapter 4 of the PRMP/FEIS (refer to pp. 4-189 through 4-203). The BLM does not require nonmarket valuation as part of the economic analysis prepared for Resource Management Plans. The choice of social and economic data appropriate for a land use plan level analysis is largely determined by the range and scale of potential impacts, as shaped by the alternatives considered and analyzed in detail in the PRMP/FEIS. Given the range of alternatives analyzed, the BLM determined that the information that would be provided through a nonmarket analysis would be unlikely to reveal substantially different economic impacts among the alternatives. Therefore, a nonmarket analysis for the Rawlins land use planning effort was not pursued.

Issue Number 282: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM was also asked to specifically address the impacts of the inevitable boom and bust cycles associated with oil and gas development...The Proposed Plan has the potential to perpetuate the dominance of the oil and gas industry in the local economies of the RMPPA. This will have real long-term consequences that must be measured. To fail to do so presents a one-sided view of the outcomes of increasing oil and gas development in the region.”

Response:

The potential impacts on socioeconomics from management actions are adequately presented in the PRMP/FEIS (refer to pp. 4-189 through 4-203). The protester raises specific concerns about the long-term economic and social impacts of the oil and gas boom. As noted above, socioeconomic impacts of oil and gas development are discussed in Chapter 4 (refer to pp. 4-510 through 4-512). This narrative includes long-term considerations for the region, such as the potential for substantial increases in tax revenues and royalty payments being offset by increased demand for housing, social services, law enforcement, infrastructure, and services addressing drug abuse as well as the consideration of anticipated custom and cultural changes likely to occur in the area as a result of rapid oil and gas development.

Issue Number 283: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The analyses of the tax impacts of the alternatives are inadequate...it [the PRMP/FEIS] fails to consider the reduction in tax revenues from certain sources that will likely result from the implementation of the Proposed Plan...the Proposed Plan will have negative impacts on residential property values which have not been estimated.”

Response:

The PRMP/FEIS does provide a tax revenue analysis. As stated in the PRMP/FEIS, tax revenues for some counties “are expected to be significant and will remain a major source of revenue for many years to come for various jurisdictions” (refer to p. 4-511). Based on the amount of oil and

gas production envisioned under the various management alternatives analyzed, any reduction in tax revenues from other sectors in the study region would be expected to be minor compared to the tax revenues derived from the oil and gas activity itself. Also, given the fact that housing is currently in short supply as a result of the current oil and gas “boom,” prices are expected to remain strong in the foreseeable future. As stated in the PRMP/FEIS, “if oil and gas development creates a degradation of the surrounding environment, residential property values are likely to suffer... communities within the study area will be affected by the “boom and bust” cycle” (refer to pp. 3-66 and 4-511). The PRMP/FEIS discloses the impact of a likely decline in residential property values once the inevitable “bust” occurs.

Issue Number 284: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“To better reflect local production practices, the oil and gas and cattle production sectors of the four-county IMPLAN [Impact Analysis for Planning] model for the Rawlins RMP were modified’ (p. A35-3). No further explanation of this modification is given. This creates considerable suspicion about the methods used to estimate the impacts of these industries.”

Response:

The University of Wyoming calibrated the IMPLAN model to reflect the region being studied. Therefore, reference is made to modifications made to the model; this reference means that the coefficients in the national model were calibrated to better reflect local production practices for the applicable region (refer to Appendix 35, p. A35-3).

Issue Number 285: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM failed to provide promised analyses and documentation...the BLM responded, ‘There will be detailed Economic and Community Profiles for the counties and communities in the study area added to Appendix 35 (p. A38-141). These were not in fact added.’”

Response:

The Economic Profiles was inadvertently omitted from Appendix 35 of the PRMP/FEIS. The Economic Profiles have now been updated and posted to our web site for the Rawlins RMP at <http://www.blm.gov/rmp/wy/rawlins/documents.html>. This is noted in the Record of Decision.

Issue Number 286: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM makes unsubstantiated assertions about the relative importance of the oil and gas industry for local employment and income...[and] BLM makes unsubstantiated claims about local support for oil and gas development.”

Response:

The Regional Economic Information System serves in part as the database used to produce the economic profiles depicting both earnings and employment by sector, which are now available on the Rawlins website. These profiles indicate the relative importance of the mining sector (which includes oil, gas, coal, and hard rock mining) within the study area. In 2005, mining represented over 35% of the earnings reported in Sweetwater County. Based on the increased oil and gas activity projected for this region, the relative importance of this sector is expected to increase (refer to pp. 3-64 through 3-65 and Appendix 35).

As detailed in the PRMP/FEIS, “residents within the [planning area] have long held opinions that a need exists to balance conservation of natural resources with the economic viability of resource-based industries. As such, residents generally support the development of minerals and energy as long as these activities do not damage wildlife habitat or degrade the quality of recreational experiences. Consequently, some local residents will support further development activities, whereas others will be dissatisfied if development activities were to reduce hunting opportunities or degrade recreational activities. In addition, others might be dissatisfied if areas within the [planning area] are not left in an undisturbed state” (refer to p. 4-511). These statements are included to illustrate that opinions on rapid oil and gas activity vary within the impacted community.

Soils

Issue Number 287: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The FEIS fails to provide adequate levels of baseline information on soil characteristics within the RMPPA. The FEIS includes only a very generic spatial representation of soil types in the planning area, a representation that does not portray the distribution of soils that are unstable, have excess salinity, are highly prone to erosion and/or compaction, or have productivity problems. These data are readily available to the BLM and have been presented in other large-scale EISs within the RMPPA.”

Response:

The general soils descriptions found in Chapter 3 of the PRMP/FEIS (section 3.17.3, pp. 3-135 through 3-138) provide the information to predict general impacts from the proposed alternatives and to support the management actions found in Table 2-1 (p. 2-98). The PRMP/FEIS provides an adequate analysis of the potential impacts to soils (section 4.17, pp. 4-410 through 4-438). In addition, soils must be managed to meet the Standards for Healthy Rangelands (Appendix 8), Standard 1. The level of detail the protester has suggested concerning the soil resource is used in large scale project level EISs and found in Order 3 level soil surveys which are available for most of the planning area. The site-specific project level NEPA analysis is where avoidance of unstable soils, such as landslides, steep slopes, or areas with soil creep would be identified.

Travel Management

Issue Number 288: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“It appears that the semi-loop route along the Skull Creek Rim and the rim route along the Adobe Town Rim are boundary routes that will remain open to vehicle travel, and if so, this should be made clear to the public in the ROD.”

Response:

Adobe Town WSA boundary roads are within the *Limited – Designated Roads and Trails/Existing Roads and Vehicle Routes* designation (refer to Map 2-44). Roads and vehicle routes will be “designated” according to the transportation plan (refer to Appendix 21). These designations will be consistent with the desired ROS class (refer to Appendix 37) and the IMP. Until the transportation plan is complete, the area will be managed under the *Existing Roads and Vehicle Routes* designation.

Issue Number 289: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM states, ‘the number of unauthorized roads pioneered within the RMPPA is expanding rapidly.’ FEIS at 3-47. Clearly, the BLM has information about the unlawful creation of new vehicle routes off existing vehicle routes, which are open to motorized use under current BLM regulations. The EIS does not disclose the mileage of known routes that have been unlawfully pioneered by motor vehicles, nor does it disclose particular problem areas or geographic distribution of illegally pioneered routes.”

Response:

The protester expresses specific concerns relating to baseline information for known routes that have been unlawfully pioneered by motor vehicles. The BLM has not engaged in the mapping or quantification of unlawfully pioneered roads. Illegally created travel routes are investigated through the BLM law enforcement program. Consideration or analysis of illegal activities is beyond the scope of this analysis (refer to pp. A38-283). Illegally pioneered roads and routes will be addressed in the Travel Management Plan developed within five years after the completion of the RMP (refer to Appendix 21). Until the Travel Management Plan is in effect, travel is limited to existing roads and vehicle routes, unless otherwise designated (refer to pp 2-38).

Issue Number 290: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM’s presentation of its road network is grossly incomplete in the FEIS, and this shortcoming hampers the ability of the agency to conduct a meaningful assessment of the impacts of habitat fragmentation by roads and other facilities on wildlife species. Baseline information for roads is therefore

readily available to the BLM. There is no real cost or penalty (other than the time required to perform an analysis) which could excuse the BLM from this bedrock requirement of the NEPA.”

Response:

The protester expresses specific concerns relating to baseline information for roads within the planning area. The impacts of habitat fragmentation by roads and other surface disturbing activities on wildlife are adequately addressed by alternative in section 4.19, pages 4-464 through 4-485. Planning-level analyses are broad and qualitative, rather than quantitative or focused on site-specific actions.

The BLM travel management plan for the Rawlins planning area will be developed within five years after the approval and publication of the ROD/Approved Plan. A current inventory of roads is available to the BLM and during the development of the travel management plan additional data will be collected on travel routes. The travel management plan will be developed through a collaborative and community-based process by incorporating internal and external input from cooperating agencies, communities, and interest groups (refer to Appendix 21). Until the travel management plan is in effect, travel is limited to existing roads and vehicle routes, unless otherwise designated.

Tribal Interests

Issue Number 291: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Although the BLM argues that it adequately offered opportunities for consultation with Native American tribes and governments regarding Traditional Cultural Properties and other historic and cultural sites, it is clear that such consultation did not occur.”

Response:

Consultation with Native American tribes is an ongoing process that began before the current Rawlins land use plan revision effort and will continue after approval of a Proposed Plan. The PRMP/FEIS identifies the process by which the BLM consulted with Native American Tribes throughout the planning process (see p. 5-5). For site-specific actions, the BLM will follow the process identified in BLM Manual 8120 and Appendix 5.

Vegetative Communities

Issue Number 292: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM should pursue the acquisition of additional wetland areas under the new plan, as projected for Alternative 3. FEIS at 4-286. It is unclear whether or not this would take place under the proposed plan, as the FEIS is silent on this point. See FEIS at 4-288.”

Response:

The management goal of the Proposed Plan for the Laramie Plains Lakes ACEC is that the BLM will “seek the cooperation of owners of adjacent property in management of the habitat” (refer to p. 2-72). The management objective for the Laramie Plains Lakes ACEC is that the BLM will “maintain, restore, or protect potential habitat and pursue opportunities for partnerships and cooperative management on adjacent lands” (refer to p. 2-72). The BLM will “actively pursue acquisition of lands or easements to enhance access to public lands and/or expand habitat to meet the objectives of the management area stated previously” (refer to pp. 2-72 and 2-73). Analysis of the Proposed Plan shows that the impacts from management actions under the Laramie Plains Lakes WHMA would be the same as those identified under Alternative 1 (refer to p. 4-288). The impact analysis for Alternative 1 is found in section 4.13.13.2 (pp. 4-283 through 285 of the PRMP/FEIS). These actions will allow the BLM to acquire additional wetlands within the Laramie Plains Lakes area for a diversity of wildlife species dependent upon wetland habitats, including the endangered Wyoming toad.

Issue Number 293: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“[The FEIS fails] to take a hard look at impacts to vegetation.”

Response: The BLM’s analysis of impacts to vegetation from the Proposed Plan and alternatives is adequate (refer to pp. 369-390). Impacts to vegetation from dust or invasive species will be assessed when site-specific proposals are brought forward. Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions. The BLM will conduct subsequent NEPA analyses for implementation actions, such as oil and gas field development, allotment management plans, and public land use authorizations. These activity plan-level analyses will extend the environmental analysis by using information from site specific project proposals (in accordance with 40 CFR § 1502.20).

Issue Number 294: PP-WY-Rawlins-08-14

Organization: Western Watersheds Project

Issue Excerpt Text:

“The NEPA documents failed to provide any information as to why the BLM’s goal of achieving at least 75% of stream miles in PFC by the late 1990’s was not met, nor what direction would be needed to insure that this goal would now be met in a timely manner.”

Response:

The goal referred to is a national goal, rather than one specific to the Rawlins planning area. The 2007 Public Land Statistics indicates that 89% of riparian areas on BLM administered lands are in proper functioning condition, with about 57% of the riparian areas on public land in the contiguous United States in proper functioning condition. The Rawlins PRMP/FEIS analyzes the effects of the proposed actions and alternatives, including a No Action alternative for the

planning area. One objective common to all alternatives in the Rawlins PRMP/FEIS is to “Maintain or improve wetland/riparian areas as required by the Wyoming Standards for Healthy Rangelands (DOI BLM 1997)” (refer to p. 2-99). The analysis of the effects of each alternative on riparian areas was made based on how the actions in the alternative related to achievement of that objective. Evaluations of the Riparian Healthy Land Standard reveal which areas are meeting and which are not meeting the Standard. A determination of causal factors is made for those areas that are not meeting the Standard so that management can be appropriately adjusted to make progress toward meeting the Standard.

Issue Number 295: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“The RMP provides no substantive protection for Unique Plant Communities. . . . Thus the conclusion that the proposed Plan would not result in significant impacts to unique plant communities (p. 4-390) is invalid.”

Response:

Unique plant communities and special status species are afforded protection regardless of ACEC or WHMA status. Management actions associated with sensitive plant species are addressed in Table 2-1 (refer to pp. 293-294).

Appendix 24 within the PRMP/FEIS states that BLM will identify and catalogue unique plant communities, including the sand hills bitterbrush/silver sagebrush, cushion plant, and vegetation in the chain lakes alkaline wetland area BLM will also develop and put in place protection measures. Appendix 24 also states that BLM will conduct field visits to determine if unique plant communities or unique plant habitat exists in project areas. Projects will be moved or modified to avoid the habitat or the plants; however, if avoidance is not possible, projects will be designed to minimize disturbance to the identified habitat or plants. In the rare instance that a project could not be modified to the extent needed to protect the unique plant communities, that project would not be authorized.

As stated in the vegetation management objectives within the PRMP/FEIS, the BLM will maintain, restore, and enhance T&E plant species, BLM State Sensitive Species (Special Status Plant species), and unique plant communities (refer to p. 2-93). Special Status Species management actions common to all alternatives states that in unique plant communities, such as the Muddy Gap Cushion Plant Community area, notices will be required for locatable mineral exploration and development (except casual use) consistent with regulations (refer to p. 2-94). Intensive management actions will be taken to protect unique plant communities, where necessary. Disturbance to any vegetation community will be minimized through application of BMPs and mitigation (Appendices 13, 14, 15 and 19, and reclamation practices (Appendix 36)), as appropriate and practical (refer to p. 2-93).

Issue Number 296: PP-WY-Rawlins-08-45

Individual: Hollis Marriott

Issue Excerpt Text:

“Designated management areas for plant species and communities provide little or no protection for values of concern even though the BLM recognizes those values as relevant and important (BLM 2007). The areas are not closed to disturbance; rather they are to be intensively managed for both protection of vegetation values and resource development. The sites are open to oil and gas development, locatable mineral entry, and disturbance. The BLM proposes to rely on intensive management, avoidance, mitigation and monitoring rather than closing areas. These measures do not constitute protection, already discussed in section 1.1. Thus the conclusion that these areas reduce impacts to vegetation values (pp. 4-376 and 4-388) is invalid.”

Response:

Protective measures for plant species and communities are addressed above, see response to Issue 295. The BLM’s multiple use mandate does not require that all uses be allowed on all areas of the public lands. The purpose of the mandate is to require the BLM to evaluate and choose an appropriate balance of resource uses, which involves tradeoffs between competing uses.

The BLM identifies management actions in the PRMP/FEIS that reduce potential adverse environmental effects on plant species and communities. For example, the various closures to surface disturbing activities, the no surface occupancy restrictions, and intensive management of surface disturbing activities will each afford protection to these sensitive resources (refer to pp. 2-95 through 2-96 and pp. 2-108 through 2-109). When site-specific proposals for action are submitted to the BLM or developed by the BLM, further environmental analyses at the project implementation-level will be required. This includes analysis in compliance with NEPA and other laws such as the Endangered Species Act. These processes may result in site-specific mitigation measures that supplement those described in the PRMP/FEIS.

Visual Resource Management

Issue Number 297: PP-WY-Rawlins-08-104

Organization: Shell WindEnergy Inc.

Issue Excerpt Text:

“BLM fails to explain in the EIS [Environmental Impact Statement] how its application of the criteria in the VRM [Visual Resource Management] Manual justifies the change. [The] BLM is required by its Visual Resource Inventory Manual to evaluate scenic quality, analyze sensitivity levels, and delineate distance zones. There is no indication in the EIS that any of these steps were taken to reclassify the areas within which the Ferris Valley site is located.”

Issue Number 298: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The RMP assigns Class II Visual Resource Management (VRM) to public lands where the land use allocations conflict with visual restrictions. These classifications contradict BLM visual resource management policy.”

Issue Number 299: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The FEIS acknowledges that it is inappropriate to apply VRM Class II in the Checkerboard. . . . The RMP nevertheless extends VRM Class II to private land where the trail segments run and other private land areas...If BLM removed VRM Class II from the Checkerboard, it must do so for the private land areas as well.”

Issue Number 300: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“Most of the RFO [Rawlins Field Office] is leased under standard or minor constraints. While BLM revised the VRM Class II classifications to not affect leased areas, this is still an issue for the historic trails. . . . Thus, the RMP cannot lawfully apply Class II and the VRM study needs to be revised to conform to BLM VRM policy.”

Response:

In further review of the primary issue from the protest letters as stated above, the BLM grants the protest and will provide a clarification in the ROD. The VRM class designation and decision portions of the PRMP/FEIS have been remanded. The VRM designations and decisions will be reevaluated and subject to subsequent NEPA analysis. To comply with VRM policy, the Rawlins Field Office will undertake an effort to update the inventory of visual resources within the planning area (refer to BLM-VRM Manual 8410 and 8400). Using this updated inventory as a baseline, VRM class designations will be considered and analyzed in a future VRM-targeted EIS for the planning area.

The public will have an opportunity to comment during the subsequent NEPA environmental analysis process regarding Rawlins VRM. Until such time, the Approved Plan will utilize the VRM class designations as established and analyzed in the no action Alternative (Alternative 1) in the Rawlins PRMP/FEIS. Unless otherwise specified in the Record of Decision, all other portions of the Proposed Plan are upheld and approved by the State Director.

Issue Number 301: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Class III [Visual Resource Management] VRM is the only VRM classification considered for this area [Shirley Mountains SRMA and Cave Creek Cave ACEC] (id.), an arbitrary and capricious restriction of reasonable alternatives.”

Response:

VRM Class II is considered for the Shirley Mountain and Cave Creek Cave area in Alternative 1 in the PRMP/FEIS (refer to Map 2-51). See also the response to issue 300 above.

Issue Number 302: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“VRM Class I should be applied to all of the Adobe Town citizens’ proposed wilderness/Very Rare or Uncommon state designation that remains essentially pristine, while VRM Class II may be appropriate in a few areas where some intrusions presently occur.”

Response:

As a component of Alternative 1, the viewshed “within” the Adobe Town WSA will continue to be protected by VRM Class I designation (refer to IM -2000-096, Use of Visual Resource Management Class I Designation in Wilderness Study Areas). There is no directive to protect the viewshed outside the boundary of the WSA as a benefit or protection for the values within the WSA. The VRM class and viewshed analysis will be taken into consideration during environmental analysis for any project-level proposal within the planning area. See also the response to issue 300 above.

Issue Number 303: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Nowhere does the BLM map the location of areas with high-value visual resources. The BLM not only failed to incorporate this baseline information into the EIS process, but they also failed to undertake their own mapping of important visual resources. A baseline inventory of visual resources is a necessary prerequisite to establishing appropriate Visual Resources Management designations, and exercise which is undertaken in the FEIS.”

Response:

The VRM class designation and decision portions of the Proposed RMP/Final EIS have been remanded (refer to BLM Land Use Planning Handbook, H-1601-1). The VRM designations and decisions will be reevaluated and subject to subsequent NEPA analysis. To comply with VRM policy (BLM VRM Manual 8400 and 8410), the RFO will undertake an effort to update the inventory of visual resources within the planning area. Using this updated inventory as a baseline, VRM class designations will be considered and analyzed in a future VRM-targeted EIS for the planning area. Through the subsequent NEPA process, the public will have an opportunity to comment during this environmental analysis process regarding Rawlins VRM. Until such time, the Approved RMP will utilize the VRM class designations as established and analyzed in the No Action Alternative, Alternative 1 in the PRMP/FEIS.

Issue Number 304: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“VRM Class II areas also overlay significant areas of private land, where BLM lacks jurisdiction.”

Response:

The Rawlins PRMP/FEIS only directs management of *public* lands and resources administered by the BLM within the Rawlins Field Office. The VRM management classes, therefore, do not apply to any private lands. The maps in the PRMP/FEIS are generalized maps due to the scale of mapping required for an area the size of the planning area. The ROD clarifies and the Approved Plan contains detailed maps at a larger scale to better represent the complex land pattern/ownership in the planning area.

Issue Number 305: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The overlay of Class II VRM management violates BLM policy direction which provides that ‘The approved VRM objectives shall result from, and conform with, the resource allocation decisions made in the RMP’s.’ BLM Manual 8400.0-6A.2. The RMP needs to remove Class II VRM from the areas already leased. See Map 2-38. BLM cannot enforce VRM Class II when it conflicts with the underlying resource allocation...Similarly, water project construction, including pipelines and reservoirs, will not conform to VRM Class II...The VRM Class II designation will interfere with their construction.”

Response:

A remand of the VRM class designations is included in the ROD. See also the response to issue 300 above. NEPA analysis will include the determination of effects on Visual Resources during site-specific project planning.

Water Resources

Issue Number 306: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The FEIS fails to present adequate baseline information on groundwater characteristics...There is therefore no excuse for the BLM to fail to present these data in the context of the Rawlins RMP/EIS process and use it in the environmental analyses therein.”

Response:

The protester expresses specific concerns relating to baseline information for groundwater characteristics. A general description of baseline surface water quality is discussed in section 3.17.1 of the PRMP/FEIS (refer to pp. 3-129 through 3-131). Also included is a table containing summary data from the U.S. Geological Survey surface water quality stations within the planning area (refer to Table 3-39). A description of water quality condition in the planning area is included in Appendix 11. The BLM’s baseline groundwater quality information is primarily a result from studies completed prior to or during the development of oil and gas wells (refer to p. 3-132).

The BLM is currently collecting additional surface water quality baseline data, as necessary. Limited and general baseline surface water quality on 14 locations throughout the Rawlins Field

Office jurisdiction was collected during the 2005 field season. A report, completed in 2007, is available to the public and describes the methods used and results. The BLM will work closely with all involved entities to establish more current and frequent monitoring and sharing of data on critical waterbodies. The BLM has a number of groundwater monitoring wells and is continuing to establish new groundwater wells as the need arises. Data from those wells is currently being collected and analyzed.

Issue Number 307: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The proposed RMP does not provide adequate management of BLM-permitted activities on Federal lands (over which the BLM has complete regulatory authority) for Class I waters and their tributaries and 303(d) impaired waters. This deficiency must be corrected in the final plan in order to prevent violations of the Clean Water Act.”

Response:

One of the management objectives for surface water quality is intensive management of surface disturbing activities in watersheds contributing to water bodies on the Wyoming 303(d) impaired waters list (refer to pp. 2-98, 2-99, and Appendix 13). Proposed projects above Class I waters will receive special consideration during the NEPA process to ensure that a proposed project would not degrade these water bodies beyond the uses specified. Each proposed project will be evaluated individually to determine the most appropriate BMPs to be implemented (refer to Appendix 13). The BLM reviews each individual proposed activity to ensure that the potential non-point source pollution does not enter into Class I and/or 303(d) listed water bodies by applying appropriate BMPs and COAs for each activity. Although the WDEQ and the State Engineers Office have jurisdictional authority over point sources and water rights respectively, the BLM is required under the NEPA to analyze impacts and require mitigation, as appropriate, from site-specific proposals. For proposed oil and gas development projects, we realize that surface runoff from roads and well pads is an issue to consider, particularly when in the proximity of Class I and State listed 303(d) water bodies and analyze the issue accordingly under the NEPA.

Issue Number 308: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM notes, ‘The combined input from surface disturbing activities on a watershed scale would at some point and in some locations degrade water quality beyond the designated use of receiving waterbodies or contribute to the listing of 303d reaches.’ See, e.g., FEIS at 4-428 and 4-438. The BLM has clearly failed to develop reasonable alternatives that protect water quality in the context of oil and gas development. It is legally impermissible for the BLM to contribute to the continued degradation of 303(d) waters as a result of permitted activities; prevention of further impairment is mandatory.”

Response:

Compliance with 303(d) and the Clean Water Act in the PRMP/FEIS is addressed above; see response to issue 116 and 307 above. As the protester's letter states, Chapter 4 of the PRMP/FEIS does indeed describe the types of impacts that would be anticipated under the Rawlins Approved Plan. Individual assessment of Approved Plan implementation-level management actions will occur under the guidelines found in the NEPA. The BLM continues to implement current and best available BMPs to include prevention and mitigation for known impacts, as appropriate, in the planning area. The appropriate analysis will occur at the activity and project-level (refer to Appendix 11). It is difficult to forecast where and when activities within the planning area will affect water quality standards in watersheds and cause area water bodies to exceed State of Wyoming water quality standards (refer to p. A38-211). General water quality concerns pertaining to oil and gas development are found in Appendix 38 as well (refer to p. A38-204). A discussion of BMPs for surface discharge of water, roads, road crossings, wells, pads, facilities, and drilling is included in Appendix 13. The BLM, in concert with the State of Wyoming DEQ water quality regulations, will manage 303(d) listed waters as per our management objectives and management actions found in Table 2-1 of the PRMP/FEIS (refer to pp. 2-98 through 2-100).

Issue Number 309: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The RMP restricts the size of water developments to one acre-foot in the Upper Muddy Creek/Grizzly Wildlife Habitat Management Area (WHMA), when BLM lacks jurisdiction over water resources and cannot regulate the exercise of water rights granted pursuant to Wyoming law. . . . The rationale in the RMP to limit these impoundments is equally arbitrary, since depletions in the Colorado River system are managed pursuant to the Upper Colorado River Endangered Fish Recovery Program and reviewed by the U.S. Fish and Wildlife Service, not the BLM. . . . The limit restricts the efforts of Little Snake River Conservation District (LSRCD) to address erosion and riparian area vegetation in the Muddy Creek drainage, while the FEIS acknowledges that LSRCD has been a leader initiating these important projects.”

Response:

The BLM will continue to recognize water rights and the State of Wyoming's primacy over administering those water rights. The proposed one acre-foot protection on water diversions and/or storage is not intended to restrict water rights. The primary purpose is to maintain, as near as possible, a natural hydrograph in the Upper Muddy Creek sub-basin and to prevent disturbance and potential adverse alteration of sensitive fish habitat in Upper Muddy Creek.

One of the primary goals of the upper Muddy Creek Watershed/Grizzly WHMA is to manage habitat for the Colorado River fish species unique to the Muddy Creek sub-basin. Colorado River fish species have adapted to survive in a highly fluctuating hydrologic regime. Numerous studies and conservation agreements have identified the alteration of flow regimes from impoundments as one of the biggest threats to fishes of the Colorado River Basin. The resultant attenuation (flattening) of the hydrograph from constructing new impoundments does not create in stream riparian habitat conditions that benefit native fish species. A further discussion is provided in the impact analysis for fish and wildlife in the planning area within the PRMP/FEIS (refer to Chapter 4 of the PRMP/FEIS).

As stated previously, the State will continue to administer water rights as it always has. The one acre-foot reservoir restriction will not prevent or alter current operation and maintenance of the numerous existing reservoirs within the Upper Muddy Creek Watershed/Grizzly WHMA. The BLM clarifies in the ROD that the management action for the Upper Muddy Creek Watershed in the Approved Plan states, “Water impoundments in the Upper Muddy Creek Watershed/Grizzly [special designation]/[management area] (Map 2-13) that would result in storage of greater than one acre-foot per project would not be allowed” (refer to p. 2-100 of the PRMP/FEIS). This clarification removes the term “water loss” in the text of the management action in the PRMP/FEIS because it is variable over time and can be calculated multiple ways. The text on page 4-438 in the PRMP/FEIS is similarly changed to remove “water loss.” In addition, language presented in the impact analysis is also be clarified in the ROD to read, “Water quality, watershed and soils management impacts would be similar to those described under Alternative 1, except water impoundments in the Upper Muddy Creek Watershed/Grizzly WHMA (Map 2-13) that would result in storage of greater than one acre-foot per project would not be allowed” (refer to p. 4-438 of the PRMP/FEIS).

Issue Number 310: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The water storage and diversion restriction contradicts the plans and policies of LSRCDD and Sweetwater County Conservation District (SWCCD), which are actively developing water storage in the area and working together to plan future projects.”

Response:

The limitations on existing or future water rights are addressed in issue 309 above. Table 4-7 anticipates as reasonably foreseeable, “[f]ive reservoirs ranging in size from 150 - 2,500 acre-foot capacity...in the Upper Colorado River Basin” (refer to p. 4-490). Although these were disclosed in the PRMP/FEIS as reasonably foreseeable actions (refer to p. 4-490 of the PRMP/FEIS), they were not necessarily foreseen in the Upper Muddy Creek drainage within the Upper Muddy Creek Watershed/Grizzly WHMA.

The BLM is committed to providing the needed protections for species and their habitat while upholding the principles of multiple use and sustainable yield put forth in the FLPMA; protecting existing land use rights; and complying with applicable laws, regulations, executive orders and BLM manuals (such as BLM manual 6840).

Issue Number 311: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The one acre-foot limit contradicts the other goals and objectives for the Upper Muddy Creek/Grizzly WHMA, thus creating internal contradictions within the RMP.”

Response:

The goals for the WHMA as presented in the PRMP/FEIS are to “[m]anage habitat for the Colorado River fish species unique to the Muddy Creek watershed; manage crucial winter habitat for elk and mule deer; and seek cooperation of owners of adjacent property in management of the habitat” (refer to p. 2-78 of the PRMP/FEIS). Similarly, the WHMA objectives on page 2-78 relate to habitat for unique fish species, elk and mule deer, as well as monitoring and management actions related to those objectives. The goal for livestock grazing is to “maintain and/or enhance livestock grazing opportunities and rangeland health” (refer to p. 2-32 of the PRMP/FEIS). There is no contradiction between these goals and objectives and the one acre-foot limitation on impoundments. Indeed, the very reason for the restriction is to maintain habitat for the fish species in question. Additionally, the BLM has and will continue to recognize water rights and work with private landowners and appropriate State agencies to utilize their existing water rights. This action will not preclude the use of alternative water developments such as spring developments, watering tanks, and pipelines.

Issue Number 312: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“There is scant analysis of the need to limit water diversions nor is there scientific data or analysis documenting the basis for a one acre-foot limit on water diversions and storage. Nor does the FEIS [Final Environmental Impact Statement] explain the rationale for the extraordinary incursion into state authority over water development.”

Response:

The one-acre foot impoundment limitation is addressed in the impact analysis presented in Chapter 4 of the PRMP/FEIS. As stated in the Rawlins PRMP/FEIS, “Water diversion structures and impoundments have been identified as one of the biggest threats to freshwater fauna persistence (Richter et al. 1997)... Management actions to minimize entrainment of fish (e.g., screening) would be considered (refer to p. 4-462 of the PRMP/FEIS). The BLM has concluded that there is a need to reduce these impacts and has proposed management actions accordingly.

Issue Number 313: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“[Little Snake River Conservation District] LSRCD and [Sweetwater County Conservation District] SWCCD objected to the impoundment restriction on the basis that small projects are ineffective and expensive. . . . [T]he RMP imposes a restriction that will actually result in greater expenditure for less benefit. The RMP and FEIS ignore this very significant cost.”

Response:

The BLM acknowledges that smaller reservoir projects would likely incur greater costs for less benefit to agricultural practices. However, in this case, the primary concern is the conservation of, and potential detrimental impacts to, the unique Colorado River fish species.

Issue Number 314: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The FEIS assumes no impact on livestock grazing and the ACEC comment notice only identified restrictions on motor vehicle use. 72 Fed. Reg. at 31092. But the Upper Muddy Creek watershed would prohibit water diversions greater than one acre-foot of water. This is a significant restriction on the livestock industry’s ability to address potential resource competition between elk and cattle, and to mitigate potential impacts on fisheries and WGFD fishery habitat management. LSRCD and SWCCD have identified a number of projects that address resource needs to mitigate oil and gas development and these projects also have benefits to wildlife and water quality. This restriction will remove one of the most important management tools without even disclosing the proposed management restriction contrary to 43 CFR §1610.7-2(b).”

Response:

The BLM’s proposal to restrict such water diversions greater than one acre-foot of water is a management action associated with the Proposed Plan for the Upper Muddy Creek Watershed/Grizzly WHMA and is not associated with an ACEC (refer to p. 2-79, Table 2-1 of the PRMP/FEIS). The Approved Plan will not include designation of the area as an ACEC. This proposed management action was also disclosed in the DRMP/DEIS and provided for public review and comment. The reasoning behind this restriction is discussed at length in the PRMP/FEIS (refer to pp. 4-462 of the PRMP/FEIS), and is also addressed above, see responses to issues 309-312. The PRMP/FEIS does not “assume no impact on livestock grazing.” The PRMP/FEIS describes alternative strategies on p. 4-81, where it states that the impoundment restriction “would reduce the flexibility of management during periods of drought or require the use of wells, pipelines, and water hauling to provide additional reliable water sources.”

Wild and Scenic River Consideration

Issue Number 315: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“The RMP relies on a 2002 study entitled Rawlins Field Office Review of Potential Wild and Scenic Rivers in the Rawlins Resource Management Plan Planning Area (Dec. 2, 2002) (2002 WSRA Study Report) to support its Wild and Scenic Rivers Act (WSRA) determination. This study did not follow the requirements that it identify and assess the impacts of existing water rights nor the position of local and state governments, and the Wyoming congressional delegation.”

Response:

The Approved Plan will not impact existing water rights. Section 13(d) of the Wild and Scenic River Act (WSRA) states that the jurisdiction of the States over waters of any stream included in a national wild, scenic, or recreational river area shall be unaffected by the WSRA to the extent that such jurisdiction may be exercised without impairing the purposes of the WSRA or its administration.

Sec. 13(b) of the WSRA specifically states the following: “[t]he jurisdiction of the States and the United States over waters of any stream included in the national wild, scenic or recreational river area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of a water right which is vested under either State or Federal law at the time such river is included in the national wild and scenic rivers system shall entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.”

The 2002 Rawlins Field Office Review of Potential Wild and Scenic Rivers in the [RMP Planning Area] RMPPA final report (WSR Report) addresses these issues and determines the suitability of the waterways (Attachment C, section II)(refer to p. A3-1). The WSR Report is available at: http://www.blm.gov/rmp/wy/rawlins/documents/WSR_report.pdf.

Issue Number 316: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“Important Suitability Criteria Not Addressed. . . . Of the 13 factors, the study identified only 8 factors to address. . . . These do not conform to the handbook nor is there evidence in the report that these factors were actually addressed. There is no discussion of local government interests in designation nor is there any identification of current water diversions and scope of future rights. . . . The 2002 WSRA Report merely makes a finding of compatibility. It does not explain how the diversions under these ditch rights are compatible.”

Response:

Appendix 11 of the PRMP/FEIS describes the Wild and Scenic Rivers (WSR) designation process for the Rawlins planning effort, including relation to the Rawlins Wild and Scenic Rivers Review Report. The step in question is the river assessment process necessary to determine suitability. This step provides the basis for determining if a river or river segment should be recommended for inclusion in the Wild and Scenic River National System. Suitability is designed to answer three questions: 1) Should the river’s free flowing character, water quality, and Outstandingly Remarkable Values (ORVs) be protected, or are one or more other uses important enough to warrant protection; 2) Will the river’s free-flowing character, water quality, and ORVs be protected through designation; and 3) Is there a demonstrated commitment to protect the river by non-Federal entities that may be partially responsible for implementing protective management (refer to the Technical Report Prepared for the Interagency Wild and Scenic Rivers Coordinating Council, December 1999, at <http://www.rivers.gov/publications/study-process.pdf>).

To guide the answering of these three questions, thirteen factors have been provided (refer to the Wild and Scenic Rivers Review Report). The first seven should be and were considered for suitability in the final report. The final six are additional suitability factors that may also be considered, if present. These are not all-inclusive and additional factors may be considered for a particular river study. The guidelines for the factors used in the proposed plan are found in the Rawlins Wild and Scenic Rivers Review Report starting on page 3 and additional guidance can be found in the Technical Report Prepared for the Interagency Wild and Scenic Rivers

Coordinating Council, December 1999. Reports and recommendations to Congress for inclusion of BLM administered public lands in the WSRNS are based on waterways meeting established eligibility criteria and suitability factors; professional judgment; and broad participation via public education, sentiment, and involvement (refer to the Rawlins Field Office Review of Potential Wild and Scenic Rivers in the Rawlins Resource Management Plan Planning Area available on the Rawlins RMP website).

Local Governments and the public were given the opportunity to comment on the eligibility review results during the normal scoping process and throughout the environmental analysis and planning process for the Rawlins planning effort. Any comments made by the public concerning the determinations made in this review were taken into consideration and documented. This WSR eligibility review had the opportunity to be modified as a result of public comments, as necessary (refer to Appendix 3, p. A3-1 of the PRMP/FEIS).

The management objective for the Encampment River, since it meets WSR suitability factors, is to maintain or enhance the rivers outstandingly remarkable values and WSR classification, until Congress considers them for possible designation. Generally, the classification of the river reflects the level of development at the time of designation, and future development levels must be compatible with such classification. Future water impoundments, diversions, or hydroelectric power facilities will be prohibited on public lands (refer to p. D-2 of the Rawlins Field Office Review of Potential Wild and Scenic Rivers in the Rawlins Resource Management Planning Area).

Issue Number 317: PP-WY-Rawlins-08-103

Organization: Coalition of Local Governments

Issue Excerpt Text:

“BLM cannot adopt a river classification that impairs or would impede existing state recognized water rights, whether developed or not yet developed. [The] BLM management of a river segment classified under the WSRA prohibits construction of major water projects. . . . It also involves claims for in stream flows to retain the water within the river...which conflict with the valid rights entitling the owners to divert the water upstream.”

Response:

To the extent that this issue pertains to the State of Wyoming’s jurisdiction over water rights, see the BLM’s response in the *Water Resources* section above.

Wilderness Characteristics

Issue Number 318: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM must consider management of lands to protect their wilderness characteristics... [but BLM] failed to meet its obligations under the FLPMA by failing to engage in a continuing inventory of wilderness values.”

Issue Excerpt Text:

“The BLM’s approach to inventory and management of wilderness characteristics in the Proposed RMP is inconsistent with the agency’s own policy and guidance [April 11, 2003 letter from the Secretary of the Interior to Bob Bennett; IMs 2003-274 and 2003-275; IM AZ-2005-007; Wilderness Inventory Handbook; and 43 U.S.C. 1711(a)]. . . . The BLM is similarly obligated to both consider additions to wilderness values and evaluate the potential impacts on those wilderness values from its management decisions... The Proposed RMP must also consider protection of the wilderness characteristics of the lands based on one or more of the wilderness characteristics that they contain.”

Issue Number 319: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“The Proposed RMP and FEIS arbitrarily exclude from consideration the conservation of wilderness-quality lands and natural landscapes....The BLM’s response to comments regarding additional protections for lands with wilderness characteristics has been to deny that the lands meet the BLM’s requirements for “wilderness characteristics.”...This response is invalid for three reasons. First, the FEIS does not disclose specific reasons or data on why the particular lands lack wilderness characteristics under the definition in the Instruction Memorandum. Second, the Instruction Memorandum reflects BLM policy; that policy is not a statutory bar to consideration of the alternative under NEPA. Third, that policy may be counter to FLPMA’s directive to the BLM to consider the results of inventories of public lands.”

Issue Excerpt Text:

“Deficiencies in an EIS must be “significant enough to defeat the goals of informed decision-making and informed public comment. . . . Here, without information as to the lands with (at least some) wilderness characteristics, and without information on the impacts of the proposal on those lands, the EIS fails to meet both goals.”

Response:

BLM policy states that the BLM may inventory public lands for resources or other values, including wilderness characteristics, as a part of managing the public lands and land use planning. A “continuing inventory,” however, is not required. Instruction Memorandum No. 2003-275. Information provided by the public about resources and other values will be considered with all other resource information in the planning process. The BLM will continue to manage public lands according to existing land use plans while new information (e.g., in the form of new resource assessments, wilderness inventory areas or “citizen’s proposals”) is considered in any ongoing land use planning efforts.

Both the DRMP/DEIS and the PRMP/FEIS are consistent with BLM policy and guidance regarding lands with wilderness characteristics. Protection of non-WSA lands with wilderness characteristics were considered under Alternatives 3 and 4 in the DRMP/DEIS, and accordingly, management actions were considered that would afford protection to lands exhibiting wilderness characteristics within the Adobe Town fringe and the West Ferris Mountain areas (refer to the DRMP/ DEIS, pp. 2-4 through 2-5).

The BLM’s analysis of wilderness characteristics is consistent with the agency’s policy and guidance. BLM IM-2003-275 states that considering wilderness characteristics in the land use planning process may result in several outcomes, including, but not limited to: 1) emphasizing

other multiple uses as a priority over protecting wilderness characteristics; 2) emphasizing other multiple uses while applying management restrictions (e.g., conditions of use, mitigation measures) to reduce impacts to some or all of the wilderness characteristics. As a result, the BLM is not required to manage for wilderness characteristics simply because they may exist. The BLM chose not to carry the analysis of wilderness characteristics into the PRMP/FEIS because valid existing lease rights prohibited implementation of management actions to protect the wilderness characteristics identified. The BLM Approved RMP was selected from an alternative in the PRMP/FEIS that did not include management for wilderness characteristics.

As stated in the PRMP/FEIS, “All management actions related to management of the West Ferris Mountains and Adobe Town WSA fringe areas were removed” (refer to p. 2-3). A clarification will be made in the ROD that the BLM elected to manage for multiple use and not for protection of wilderness characteristics within the Adobe Town fringe and West Ferris Mountain areas. Accordingly, measures to provide protection of any wilderness characteristics of lands in addition to the previously established WSAs were not considered in any alternatives of the PRMP/FEIS (refer to p. 2-11).

Issue Number 320: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“[P]rotection of wilderness characteristics is necessary for the BLM to fulfill its obligations to consider a range of alternatives. . . . The benefits to other resources from protection of lands with wilderness characteristics are identified in the Draft RMP. . . . An alternative protecting wilderness values, with the attendant benefits to other resources in the Rawlins Resource Area, must be examined in the RMP and considered in light of these important benefits.”

Response:

The adequacy of the reasonable range of alternatives (issues 2-4) and the analysis of an alternative protecting wilderness values (issues 318-319) for the PRMP/FEIS are addressed above. In addition, the collective management actions in Table 2-1 of the PRMP/FEIS (refer to pp. 2-19 through 2-112) are adequate to protect other resources without the specific management actions to protect wilderness characteristics of the Adobe Town fringe and the west Ferris Mountains identified in the DRMP/ DEIS (refer to pp. 2-32 through 2-34). Goals, objectives and management actions for all programs are presented in Table 2-1, with the overall goal of meeting the multiple-use mandate of FLPMA and the purpose and need of the Rawlins planning effort.

Issue Number 321: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“These inventories ‘determined that some of these lands did indeed possess one or more of the above wilderness characteristics’. . . . the BLM then assessed whether or not these lands ‘were manageable as wilderness’, and concluded that they were not due to the presence of oil and gas leases, so the RMP no longer considers protection of wilderness characteristics in any alternative. . . . This conclusion [removal of all management actions related to management of the West Ferris Mountains and Adobe Town WSAs] fails

to consider the option to manage the wilderness characteristics of these areas, incorrectly requiring that the lands be able to be managed ‘as wilderness’ in order to protect any of their irreplaceable values. . . . [T]he mere presence of oil and gas leases does not prevent the agency from managing these areas to protect their wilderness characteristics.”

Response:

The adequacy of the range of alternatives (issues 2-4) and the inventory for wilderness characteristics of lands (issues 319) are addressed above. As also addressed in our responses to issues above, the DRMP/DEIS did consider an alternative to protect lands with wilderness characteristics. The BLM’s basis for dropping further consideration of an alternative in the PRMP/FEIS which provides protection of wilderness characteristics was due to the BLM’s decision to manage for multiple use and not for protection of wilderness characteristics within the Adobe Town fringe and West Ferris Mountain areas (refer to BLM IM-2003-275).

Issue Number 322: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The Proposed RMP does not sufficiently disclose the BLM’s analysis of lands with wilderness characteristics...The Proposed RMP does not meet basic standards for disclosure and accuracy, and is impermissibly preventing meaningful public comment.”

Issue Number 322a: PP-WY-Rawlins-08-101

Organization: National Wildlife Federation/Wyoming Wildlife Federation

Issue Excerpt Text:

“Deficiencies in an EIS must be “significant enough to defeat the goals of informed decision-making and informed public comment. . . . Here, without information as to the lands with (at least some) wilderness characteristics, and without information on the impacts of the proposal on those lands, the EIS fails to meet both goals.”

Response:

Inventories of citizen’s wilderness proposals were conducted by the Rawlins Field Office to determine if areas within the planning area possessed any of the three criteria for wilderness character. This inventory is included as part of the administrative record maintained at the Rawlins Field Office. The standards used to determine the potential wilderness character for the lands are described by BLM IM 2003-275. Further, the BLM’s consideration of an alternative to protect lands with wilderness characteristics in the DRMP/DEIS provided the public an opportunity to provide comments.

Issue Number 323: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The Proposed Plan does not include management prescriptions which sufficiently protect wilderness characteristics.”

Response:

Management prescriptions and protection measures in regard to lands with wilderness characteristics are addressed in our response to issue 319 above.

Issue Number 324: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“While the Draft RMP referenced acreage of the Adobe Town and Ferris Mountains areas that would be considered for management to protect its wilderness characteristics, neither the Draft nor the Proposed set out the standards that were used to determine whether or not an area had wilderness characteristics or how those standards were applied to the citizen proposals for Adobe Town, Ferris Mountain, Kinney Rim and Wild Cow areas. This glaring lack of information violates the NEPA’s requirement to provide sufficient information regarding the basis of the agency’s decision-making.”

Response:

The BLM responded to the citizen proposals by conducting inventories of the subject lands to determine whether they did indeed possess the wilderness characteristics of size, naturalness, or outstanding opportunities for primitive, unconfined recreation or solitude (refer to IM-2003-275). The wilderness characteristic evaluation forms for the Adobe Town, Ferris Mountain, Kinney Rim and Wild Cow areas are included in the administrative record for the Rawlins RMP available at the Rawlins BLM office.

Issue Number 325: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The BLM asserts that ‘Under the current criteria for wilderness characteristics...the Adobe Town fringe areas. . . do not possess wilderness characteristics.’ DEIS Comments and Responses at Row 3112. This finding is unsupported by any information as to why these areas would not qualify under this IM [2003-275-Change 1], and conflicts directly with the BLM’s earlier findings that the areas do in fact possess wilderness qualities. . . [T]he wilderness criteria evaluated by the BLM in their wilderness inventory evaluation are exactly identical to the wilderness characteristics as outlined in IM 2003-275- Change 1. The BLM’s assertion that these areas lack wilderness characteristics is therefore unsupported by the records and is arbitrary and capricious and an abuse of discretion.”

Response:

Issues in regard to non-WSA lands with wilderness characteristics are addressed in our response to issues 319, 322, and 324 above. The protester raises specific concerns about the Adobe Town fringe area, which was inventoried and evaluated for wilderness character based on the policy set forth in IM 200-275- Change 1. The inventory determined that some of the lands did indeed possess one or more of the wilderness characteristics. Measures to provide protection for any wilderness characteristics of lands in the Adobe Town fringe area were not considered further in the alternatives for the Rawlins PRMP/FEIS (refer to p. 2-11).

Wilderness Study Areas

Issue Number 326: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“The proposed plan should consider designation of new Wilderness Study Area (WSA)...making this [creating WSAs under 202] a reasonable alternative deserving consideration in this NEPA process.”

Response:

The adequacy of the range of alternatives for the PRMP/FEIS is addressed in our response to issues 2-4 above. Chapter 2 of the PRMP/FEIS details the alternatives and management options considered but eliminated from detailed analysis. See pages 2-10 through 2-11 for the discussion related to WSAs.

Issue Number 327: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Under the Proposed Action, the BLM states that all WSAs will be closed to motorized use, except for the Ferris Mountains, where motor vehicle use will be allowed on designated routes. FEIS at 4-155. We are unaware of any existing routes within the WSA that are currently open to motor vehicle use...This violates the nonimpairment criteria of BLM Handbook H-8550-1. The BLM must therefore alter management of vehicles within the WSA to conform with non-impairment.”

Response:

There are no primitive routes (‘ways’) within the WSA that are currently open to motor vehicle use under the existing Great Divide RMP. Unauthorized use of certain routes has occurred and continues to occur in spite of adequate signing of the WSA boundary. The unauthorized use is primarily associated with access to primitive camping sites at the base of Ferris Mountain. The Approved RMP will allow for certain routes, in existence at the time the WSA was established, to be designated open. Individual routes to be designated open will be determined during the development of the Rawlins transportation plan.

According to BLM Handbook H-8550-1, some lands under wilderness review may contain minor facilities that were found in the wilderness inventory process to be substantially unnoticeable. For example, these may include primitive vehicle routes or ways and livestock developments. There is nothing in the IMP that requires such facilities to be removed or use discontinued. On the contrary, they may be used and maintained as before, as long as this does not cause new impacts that would impair the area’s wilderness suitability.

Issue Number 328: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

“Given that the BLM has formally recognized that wilderness-quality lands exist outside Wilderness Study Areas in the Ferris Mountains and Adobe Town (see, e.g., Attachment 16), a reasonable alternative

recommended for consideration through public comment was for the BLM to protect these wilderness characteristics...The BLM rejected consideration of an alternative protecting wilderness characteristics in these areas...BLM also argues that some lands were "unmanageable as wilderness because of preexisting oil and gas leases," and uses this as a pretext for dropping consideration of such an alternative. FEIS at 2-11. The presence of valid oil and gas leases is irrelevant to manageability for wilderness qualities; it is not until valid leases are developed that wilderness qualities are impaired. BLM's argument is arbitrary and capricious and an abuse of discretion pursuant to the Administrative Procedures Act because it directly conflicts with agency experience with just this issue within the RMPPA. Virtually the entire Adobe Town WSA was encumbered by preexisting leases (and even oil and gas units) upon establishment in 1980, yet the BLM saw no obstacle to managing these lands for wilderness characteristics while allowing the valid existing lease rights to remain in force (BLM 1981, BLM 1991: 187, 190)."

Response:

Issues regarding lands with wilderness characteristics are addressed in our response to issues 319-325 above. When considering wilderness values in the area, the BLM assumes that the Adobe Town area will be developed during the life of the plan, and that the development of valid existing leases will lead to impairment of wilderness qualities. The Adobe Town fringe falls within moderate oil, gas, and coalbed natural gas potential, as indicated on Map 4-7 in the PRMP/FEIS. The assumption for analysis for oil and gas development within Chapter 4 of the PRMP/FEIS is that the majority of the oil and gas exploration and development is projected to occur in areas currently experiencing oil and gas development, based on high and moderate oil and gas potential (refer to p. 4-84).

The protester also raised concerns as to the presence of pre-existing oil and gas leases within the Adobe Town WSA in relation to the current Rawlins land use planning effort. The inventory and evaluation process conducted during the 1980 era for the Adobe Town WSA are not relevant to the current planning effort because the Adobe Town fringe lands today are not subject to the WSA inventory and evaluation process.

Issue Number 329: PP-WY-Rawlins-08-89

Organization: Biodiversity Conservation Alliance

Issue Excerpt Text:

"The BLM has the obligation to analyze the expansion of Wilderness Study Areas as an alternative. The BLM cites settlement in the case of State of Utah v. Norton as justification for the notion that it cannot expand Wilderness Study Areas under the Rawlins RMP...there is no legal authority absent a Consent Decree preventing the BLM from establishing new WSA lands."

Response:

The adequacy of the reasonable range of alternatives for the PRMP/FEIS is addressed in our response to issues 2-4 above. According to BLM Washington Office IM-2003-274, Congress established a deadline for the BLM's authority to designate WSAs, which are then managed under the non-impairment provisions of Section 603 of the FLPMA. Following expiration of the Section 603(a) process, it was determined that there is no general legal authority for the BLM to designate lands as WSAs for management pursuant to the non-impairment standard prescribed by Congress for Section 603 WSAs. The FLPMA land use plans completed after April 14, 2003, do not designate any new WSAs, nor manage any additional lands under the Section 603 non-impairment standard.