

*Director's Protest Resolution Report*

**Grand Junction (Colorado)  
Proposed Resource  
Management Plan  
and Final Environmental  
Impact Statement**

August 10, 2015



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## Reader's Guide

### How do I read the Report?

The Director's Protest Resolution Report is divided into sections, each with a topic heading, excerpts from individual protest letters, a summary statement (as necessary), and the Bureau of Land Management's (BLM) response to the summary statement.

### Report Snapshot

**Issue Topics and Responses**  
NEPA

**Topic heading**

**Submission number**

**Issue Number:** PP-CO-GJ-15-01-XX  
**Protest issue number**

**Organization:** The Forest Initiative  
**Protesting organization**

**Protester:** John Smith  
**Protester's name**

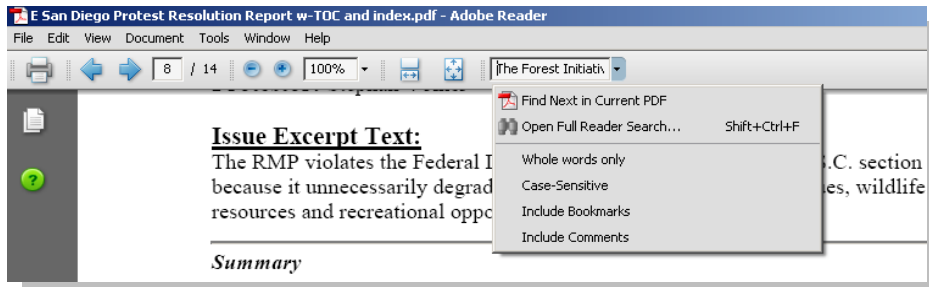
**Issue Excerpt Text:**  
Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.  
**Direct quote taken from the submission**

**Summary**  
General statement summarizing the issue excerpts (optional).  
There is inadequate NEPA analysis in the PRMP/FEIS for renewable energy projects.

**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 surrounding properties), along with the identification of possible alternatives and mitigation measures.

### 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*

<b>ACEC</b>	Area of Critical Environmental Concern	<b>IB</b>	Information Bulletin
<b>BA</b>	Biological Assessment	<b>IM</b>	Instruction Memorandum
<b>BLM</b>	Bureau of Land Management	<b>KOP</b>	Key Observation Points
<b>BMP</b>	Best Management Practice	<b>LRMP</b>	Land and Resource Management Plan
<b>BO</b>	Biological Opinion	<b>MOU</b>	Memorandum of Understanding
<b>CAA</b>	Clean Air Act	<b>NEPA</b>	National Environmental Policy Act of 1969
<b>CEQ</b>	Council on Environmental Quality	<b>NHPA</b>	National Historic Preservation Act of 1966, as amended
<b>CFR</b>	Code of Federal Regulations	<b>NOA</b>	Notice of Availability
<b>COA</b>	Condition of Approval	<b>NOI</b>	Notice of Intent
<b>CSP</b>	Concentrated Solar Power	<b>NRHP</b>	National Register of Historic Places
<b>CSU</b>	Controlled Surface Use	<b>NSO</b>	No Surface Occupancy
<b>CWA</b>	Clean Water Act	<b>NTT</b>	National Technical Team
<b>DEIS</b>	Draft Environmental Impact Statement	<b>OHV</b>	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
<b>DM</b>	Departmental Manual (Department of the Interior)	<b>ORV</b>	Outstandingly Remarkable Value
<b>DOI</b>	Department of the Interior	<b>PA</b>	Preliminary Assessment
<b>EA</b>	Environmental Assessment	<b>PPA</b>	Power Purchase Agreement
<b>EIR</b>	Environmental Impact Report	<b>RFDS</b>	Reasonably Foreseeable Development Scenario
<b>EIS</b>	Environmental Impact Statement	<b>RMP</b>	Resource Management Plan
<b>EO</b>	Executive Order	<b>ROD</b>	Record of Decision
<b>EPA</b>	Environmental Protection Agency	<b>ROW</b>	Right-of-Way
<b>ESA</b>	Endangered Species Act	<b>SO</b>	State Office (BLM)
<b>FEIS</b>	Final Environmental Impact Statement	<b>T&amp;E</b>	Threatened and Endangered
<b>FEIS</b>	Final Environmental Impact Statement	<b>USC</b>	United States Code
<b>FLPMA</b>	Federal Land Policy and Management Act of 1976	<b>USGS</b>	U.S. Geological Survey
<b>FO</b>	Field Office (BLM)	<b>VRM</b>	Visual Resource Management
<b>FWS</b>	U.S. Fish and Wildlife Service	<b>WA</b>	Wilderness Area
<b>GIS</b>	Geographic Information Systems	<b>WSA</b>	Wilderness Study Area
<b>HRV</b>	Historic Range of Variability	<b>WSR</b>	Wild and Scenic River(s)

## *Protesting Party Index*

Protester	Organization	Submission Number	Determination
Jason Oates	Encana Oil & Gas	PP-CO-GrandJunction-15-01	Denied / Issues and Comments
Scott Jones/D.E.Riggle/ Randall Miller	COHVCO/Trails Preservation Alliance/CO Snowmobile Association	PP-CO-GrandJunction-15-02	Dismissed / Comments only
William Sparks/Theresa Sauer	Beatty & Wozniak, PC on behalf of Black Hills Exploration & Production and Black Hills Plateau Production	PP-CO-GrandJunction-15-03	Denied / Issues and Comments
Kathleen Sgamma/David Ludlam	Western Energy Alliance/West Slope COGA	PP-CO-GrandJunction-15-04	Denied / Issues and Comments
Chris Clark	Oxy USA, Inc.	PP-CO-GrandJunction-15-05	Denied / Issues and Comments
Karen Sjoberg	Citizens for Clean Air	PP-CO-GrandJunction-15-06	Denied / Issues and Comments
Nathan T. Fey	American Whitewater Affiliation	PP-CO-GrandJunction-15-07	Denied / Issues and Comments
James Solomon	Motorcycle Trail Riding Association	PP-CO-GrandJunction-15-08	Dismissed / Comments Only
Steve Martin / Frank Lillo	Motorcycle Trail Riding Association / Bookcliff Rattlers Motorcycle Club	PP-CO-GrandJunction-15-09	Dismissed / Comments Only
Dan Antonelli / Kris Cox	Colorado Plateau Mountain Bike Trail Association	PP-CO-GrandJunction-15-10	Dismissed / Comments Only
Wendy Park, et. al	Center for Biological Diversity	PP-CO-GrandJunction-15-11	Denied / Issues and Comments
Nada Culver / Luke Schafer / Rein van West	The Wilderness Society / Conservation Colorado / Western Colorado Congress	PP-CO-GrandJunction-15-12	Denied / Issues and Comments
Joan Woodward	Individual	PP-CO-GrandJunction-15-13	Denied / Issues and Comments

Larry Martinez	Individual	PP-CO-GrandJunction-15-14	Dismissed / Comments Only
Bill Hamann	Individual	PP-CO-Grandjunction-15-15	Dismissed / Comments Only
Janice Shepherd / Dave Reed	Quiet Trails Group / Western Colorado Congress	PP-CO-Grandjunction-15-16	Denied/Issues and Comments
Rose Pugliese / John Justman / Scott McInnis	Mesa County Commissioners	PP-CO-Grandjunction-15-17	Denied/Issues and Comments
Mark Hellman	Individual	PP-CO-Grandjunction-15-18	Dismissed / Comments Only
Brandon Siegfried	Individual	PP-CO-Grandjunction-15-19	Dismissed / Comments Only

## ***Issue Topics and Responses***

### ***Clean Air Act***

**Issue Number:** PP-CO-GJ-15-01-36

**Organization:** Encana Oil and Gas

**Protestor:** Jason Oates

**Issue Excerpt Text:** The BLM improperly attempts to exercise authority to regulate air quality and air emissions in the Proposed Grand Junction RMP. The BLM sets as its objectives in the Proposed Grand Junction RMP Air Quality Section to "limit air quality degradation from authorized activities on BLM-administered lands," to "manage air resources within the GJFO in accordance with the CARPP," and to "minimize emissions, within the scope of BLM's authority, from activities that cause or contribute to air quality impairment, visibility degradation, atmospheric deposition, or climate variability" (Proposed Grand Junction RMP, pgs. 2-25, 2-27). Although Encana supports the BLM's laudable goal of protecting air quality, the BLM does not, as a matter of clear and unequivocal Federal law, have the authority to impose air emissions standards, ensure that air quality standards are maintained, or protect visibility within the Grand Junction Field Office.

**Issue Number:** PP-CO-GJ-15-01-38

**Organization:** Encana Oil and Gas

**Protestor:** Jason Oates

**Issue Excerpt Text:** With respect to potential visibility impacts, the BLM's authority is also limited by existing federal law. Under the CAA, a federal land manager's authority is strictly limited to considering whether a "proposed major emitting facility will have an adverse impact" on visibility within designated Class I areas [42 U.S.C. § 7475(d)(2)(B) (2012)]. Oil and gas operations do not meet the

definition of a major emitting facility. Further, under the CAA, the regulation of potential impacts to visibility and authority over air quality in general rests with the CDPHE. The goal of preventing impairment of visibility in Class I areas will be achieved through the regional haze state implementation plans (SIPs) that were recently approved. 42 U.S.C. § 7410(a)(2)(J); 77 Fed. Reg. 76,871 (Dec. 31, 2012). Although federal land managers with jurisdiction over Class I areas may participate in the development of regional haze SIPs, the BLM has no such jurisdiction in the Grand Junction Planning Area [42 U.S.C. §§ 7491 -7492 (2012)].

Accordingly, the BLM has no authority over air quality and cannot impose emissions restrictions, either directly or indirectly, on natural gas operations in Colorado, particularly if the overall goal is to reduce potential visibility impacts.

**Issue Number:** PP-CO-GJ-15-01-39

**Organization:** Western Energy Alliance, Public Lands Advocacy

**Protestor:** Kathleen Sgamma/Claire Moseley

**Issue Excerpt Text:** Given the restrictions on BLM's authority over air quality, the BLM lacks authority to impose any of the emissions to measure controls listed in Table 2-1. See Proposed Grand Junction RMP, pgs. 2-25 0 2-28. For example, the Proposed Grand Junction RMP would require all operators to use "green completion" technology, and would require "all drilling and completion engines used on public lands or used to access federal minerals" to be in conformance with the CARPP, which allows the BLM to require Tier IV diesel engines, natural gas fired engines, or electric engines. Proposed Grand Junction RMP, pgs.2-27 - 2-28; see Proposed Grand Junction RMP app. G, pg. 15. These restrictions and potential restrictions are entirely

inappropriate and beyond the BLM's authority. Under the CAA, the regulation of reciprocating internal combustion engines and other mobile sources is exclusively within the jurisdiction of the EPA, not the BLM. The EPA, using its authority under the CAA, has issued regulations regarding non-road diesel engines and fuels such as those typically used for drilling and development operations. For these reasons, in its Record of Decision, the BLM must remove and eliminate all of its proposed actions requiring drilling and completion engines, as well as its requirement that all wells be completed using green completions.

**Issue Number** PP-CO-GJ-15-03-34

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** BLM does not have the statutory or regulatory authority to regulate air quality or enforce air quality laws. Under the Clean Air Act (CAA), each state has been delegated the primary responsibility for assuring air quality within non-tribal areas of the state. In Colorado, the Colorado Department of Public Health and the Environment (CDPHE) has primary jurisdiction over air quality by delegation from the Environmental Protection Agency (EPA). See Colorado Revised Statute § 25-7-1309.

The BLM's authority to develop land use plans and otherwise manage federal land under FLPMA does not usurp the air quality authority granted to CDPHE. FLPMA simply requires BLM to "provide for" compliance with federal air quality standards in federal land use plans. To provide for compliance with the CAA in the RMP, BLM simply has to provide lease stipulations or notices that ensure that Applications for Permits to Drill and other

site-specific project authorizations include a measure or condition of approval that a lessee must obtain all applicable air permits from the appropriate jurisdictional authority, here CDPHE. To fulfill its legal obligations under NEPA and FLPMA, BLM must analyze and disclose impacts to air (e.g., NAAQS) in NEPA documents. BLM, however, is not the regulating agency to ensure that oil and gas operations comply with the CAA. Nor does BLM have the authority to impose emission controls. The NEPA process for federal land use planning cannot be used as a surrogate for the Clean Air Act.

**Issue Number:** PP-CO-GJ-15-03-36

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** Records of Decision for RMPs and related NEPA documents do not themselves authorize any activity capable of emitting air pollutants. At the site-specific project level, companies must obtain a permit and authorization from CDPHE before constructing any regulated emission source that is analyzed in a project-specific NEPA document and approved by a BLM decision. Companies must also comply with applicable air regulations once operations commence. Applications for Permits to Drill (APD) are issued with conditions of approval that require operators comply with all applicable laws. But this does not provide a legal basis for BLM to regulate air quality standards. CDPHE has sole jurisdictional authority to process and issue air permits for oil and gas operations and to ensure that operators comply with those permits and the CAA. Colorado's air standards require regulated entities to prevent venting from tanks, establish stringent requirements for capture and control of emissions from tanks, dehydrators and other sources, impose



requirements for instrument-based inspection for fugitive emissions of both volatile organic compounds (VOCs) and methane, require prompt repair of leaks, and require management of liquids unloading events. That is also the case for regulations established by the Colorado Oil and Gas Conservation Commission that reduce air emission and odor.

In sum, the GJFO RMP/FEIS fails to adequately explain BLM's proper, and limited, role in protecting and regulating air quality. BLM must remove any restrictions contained in the RMP that attempt to regulate air quality.

**Issue Number:** PP-CO-GJ-15-03-37  
**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production  
**Protector:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** The RMP/FEIS improperly includes imposition and implementation of the Comprehensive Air Resource Protection Protocol (CARPP). The BLM does not have the legal authority under the Clean Air Act, FLPMA, or NEPA to impose and implement CARPP. Indeed, this imposition exceeds and violates BLM's legal authority and jurisdiction because it attempts to provide BLM with the means to require project proponents to conduct wide-ranging air modeling as well as the

imposition of ill-conceived mitigation measures through the use of COAs. Black Hills protests BLM's failure to analyze and consider the technical viability and economic feasibility of the CARPP on the oil and gas industry.

**Issue Number:** PP-CO-GJ-15-04-11  
**Organization:** Western Energy Alliance/West Slope COGA  
**Protector:** Kathleen Sgamma/David Ludlam

**Issue Excerpt Text:** BLM lacks authority to impose controls and limitations beyond those adopted by the state and EPA. The associations also protest BLM's requirements on glycol dehydrators and tank controls in Table 2-1, Record No. 11 which are clearly outside of its jurisdictional authority. CDPHE and EPA both have regulations in place that address glycol dehydrators and tanks. Furthermore, BLM cannot impose an emission threshold, as it conflicts with the state's regulatory primacy. Any emission reductions achieved on these below-threshold targets will be highly expensive and likely negated by emissions associated with additional construction, fuel and transportation activities required for compliance. This proposed rule would result in significant economic cost with no measurable environmental benefits.

### **Summary:**

The BLM is in violation of the Clean Air Act by proposing strict emissions restrictions on natural gas operations in Colorado and through including the use of the Comprehensive Air Resource Protection Protocol (CARPP).

### **Response:**

The PRMP/FEIS does not exceed the BLM's statutory authority by proposing area-wide restrictions for activities that impact air quality, nor does the PRMP/FEIS purport to create new authority for the BLM to regulate air quality. As discussed in the PRMP/FEIS:

The BLM manages public lands in the best interest of the public in accordance with the Federal Land Policy and Management Act (FLPMA). In addition to providing direction on developing

resources for the public, the act contains direction on the protection of resources. Section 102(8) of the act states in part that ‘the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values.’ Section 302(b) of the act states ‘in managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.’

Under NEPA, the BLM is required ‘to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment...’ and to ‘use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment...’ (40 CFR 1500.2) NEPA also requires analysis of potential mitigation measures and implementation and monitoring of selected mitigation measures. In addition, the BLM must ensure that projects on public lands meet or comply with all local, state, federal, and tribal plans, standards, and regulations.

Thus, the BLM must manage the public lands in a manner that appropriately protects air quality and its related values. Through its RMPs, the BLM establishes desired outcomes for air quality and the "area wide restrictions" needed to meet those outcomes (BLM Handbook H-1601-1, p. C-2). In the case of the Grand Junction PRMP/FEIS, the BLM conducted air quality analyses to determine impacts from specific federal actions anticipated under the PRMP/FEIS, and then developed emission control strategies and mitigation measures to address those impacts and achieve desired outcomes for air quality. This does not mean the BLM is writing new regulations, nor is the BLM establishing itself as a regulatory agency or establishing mitigation measures that are intended to supersede the agencies with regulatory authority over air quality. Rather, the BLM is responding to estimated impacts from the PRMP/FEIS and complying with direction under NEPA, FLPMA, and the Clean Air Act (Grand Junction PRMP/FEIS, p. 1-14, p. 3.2).

## ***Energy Policy Act***

**Issue Number:** PP-CO-GJ-15-03-20

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** Under the Energy Policy Act of 2005, Section 363 provides that lease stipulations may only be "only as restrictive as necessary to protect the resource for which the stipulations are provided." 42 U.S.C. § 15922(b)(3)(C); see also BLM's Manual 1601 on Land Use Planning, and Manual 1624 on Planning for

Fluid Minerals at App. C. II. In the GJFO RMP/FEIS, BLM must utilize the least restrictive management practices with respect to oil and gas development, and document how it complied with these mandates and how the least-restrictive lease stipulation that would offer adequate protection of a resource was selected. See BLM Handbook H-1601-1, App. C. II. The GJFO RMP/FEIS does not include this analysis. Further, the GJFO RMP/FEIS does not analyze or substantiate the imposition of virtually all of the proposed stipulations for oil and gas which BLM indicates will be applied as COAs on existing leases. The GJFO RMP/FEIS

provides no basis for these expanded restrictions. Nor does BLM even attempt to analyze the detrimental and significant negative impact that these restrictions would have on development of oil and gas resources, either individually or cumulatively.

**Issue Number:** PP-CO-GJ-03-23

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** Under preferred Alternative B, BLM proposes use of NSO stipulations within 200 meters of "current and historically occupied and suitable habitat for threatened, endangered, proposed, and candidate plant species." G.TFO RMP/FEIS Section 4.3.6 at 4-199. The stated purpose of the NSO stipulations is to protect certain species from "indirect impacts or loss of immediately adjacent suitable habitat." BLM provides no scientific justification for mandating these buffers year-round or at these distances. Further, the GJFO DRMP/DEIS proposes CSU stipulations for lands surrounding BLM sensitive plant species, including protections up to 200 meters from the edge of occupied habitat GJFO RMP/FEIS Section 4.3.6 at 4-199. BLM continues to fail to provide appropriate scientific support to justify these species restrictions.

**Issue Number:** PP-CO-GJ-15-03-25

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** BLM's continued proposal to impose NSO and CSU stipulations that outright bar oil and gas development on unoccupied DeBeque phacelia habitat is unjustifiable in light of

FWS's determination, when designating critical habitat, that "conservation efforts will allow for oil and gas development on Federal lands" and therefore are not expected to infringe on valid existing lease rights. Further, FWS stated that it is "committed to working with project proponents to implement a series of conservation efforts to protect the plants and their habitat, while allowing oil and gas development projects to move forward." FWS stated that oil and gas development will be available on occupied lands following Section 7 consultation; so too should oil and gas development be available on unoccupied lands.

With respect to the Colorado hookless cactus, FWS has not designated critical habitat. Instead, the GJFO RMP/FEIS proposes, through Preferred Alternative B, to impose NSO stipulations for lands within 200 meters of current and historically occupied and suitable habitat for the species. BLM cannot designate de facto critical habitat where FWS fails to do so. Further, BLM has not, and cannot, justify restricting oil and gas development on currently unoccupied habitat.

**Issue Number:** PP-CO-GJ-15-03-27

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** BLM must ensure that its stipulations for the protection of fish and wildlife provide reasonable opportunity for a lessee to conduct exploration and development activities upon its leases while protecting wildlife resources. Further, BLM's stipulations must be consistent with, and not exceed, state limitations. Instead, the GJFO RMP/FEIS incorporates stipulations such as NSO 34, which prohibits surface

occupancy and use and surface-disturbing activities in elk production areas year round despite current herd population calculations. GJFO RMP/FEIS Table B-5 at B-51. Black Hills protests inclusion of this stipulation in the RMP.

**Issue Number:** PP-CO-GJ-04-5

**Organization:** Western Energy Alliance/West Slope

**Protestor:** Kathleen Sgamma/David Ludlam

**Issue Excerpt Text:** Lack of Justification for Excessive Restrictions: Pursuant to the Energy Policy Act 2005, the stipulations for oil and natural gas leases within the Grand Junction PRMP/FEIS should not be onerous or more restrictive than necessary. In the PRMP, however, BLM has not provided justification for imposing prohibitive NSO and CSU stipulations. In fact, Preferred Alternative B proposes to apply 670,300 acres of land with NSO stipulations and 642,400 acres of land with CSU stipulations. An additional 526,400 acres are proposed for TL stipulations. While many of these lands overlap, BLM has clearly added overly burdensome restrictions on access to oil and gas resources.

Section 363 of Energy Policy Act of 2005 requires the Secretary of the Interior and the Secretary of Agriculture to enter into a Memorandum of Understanding regarding oil and natural gas leasing and to ensure that lease stipulations are applied consistently, coordinated between agencies, and "only as restrictive as necessary to protect the resources for which the stipulations are applied." Here, however, BLM instead proposes to adopt stipulations that are far more restrictive when compared to existing management.

**Issue Number:** PP-CO-GJ-15-05-21

**Organization:** Oxy USA, Inc

**Protestor:** Chris Clark

**Issue Excerpt Text:** Further, the BLM policy directs the agency to show that "the least restrictive constraint to meet the resource protection objection [is] used." See BLM Handbook H-1601-1, App. C.II.H. at 24. The BLM makes no such showing in the Proposed RMP and FEIS and arbitrarily imposes an unduly and unnecessarily restrictive management practice.

**Issue Number:** PP-CO-GJ-15-17-13

**Organization:** Mesa County Commissioners

**Protestor:** Rose Pugliese/John Justman/Scott McInnis

**Issue Excerpt Text:** Mesa County protests the BLM's failure to provide adequate support for its management decisions. The BLM is required to utilize the least-restrictive management practices with respect to oil and gas development. Pursuant to Section 363 of the Energy Policy Act of 2005, lease restrictions should be "only as restrictive as necessary to protect the resource for which the stipulations are provided." 42 USC § 1 5922(b)(3)(C). With respect to oil and gas resources, the BLM's Manual 1601 on Land Use Planning, and Manual 1624 on Planning for Fluid Minerals, both specifically direct the BLM to not only identify which areas would be subject to different categories of restrictions as included in the RMPA/FEIS, but also to show that "the least restrictive constraint to meet the resource protection objection [is] used." See BLM Handbook H-1601-1, App. C.II.H. at 24.

**Summary:**

The PRMP/FEIS violates the Energy Policy Act of 2005 by failing to apply the least restrictive stipulations for oil and gas leasing.

**Response:**

Section 363 of the Energy Policy Act of 2005 requires that the Secretaries of the Interior and Agriculture establish a memorandum of understanding regarding oil and gas leasing on public lands. One of the subjects of the MOU was to ensure that oil and gas lease stipulations be “only as restrictive as necessary to protect the resource for which the stipulations are applied” [42 U.S.C. § 15922(b)(3)(C)].

In order to mitigate impacts to other resources, the BLM appropriately proposes and analyzes restrictions on potential oil and gas leasing through oil and gas lease stipulations. The BLM policy requires RMPs to identify and consider areas subject to both moderate and major constraints for oil and gas leasing and identify specific lease stipulations that will be employed to accomplish resource condition objectives (BLM Handbook H-1601-1, p. C-23 to C-24). Accordingly, each alternative analyzed in the PRMP/FEIS presents a set of oil and gas lease stipulations necessary to meet the goals and objectives for each resource and resource use in the planning area.

Appendix B of the PRMP/FEIS contains detailed information for all of the stipulations presented as management actions in Chapter 2 (Table 2-2), including the stipulation, area included in the stipulation, the purpose, and exception, modification and waiver criteria. In some cases the stipulation may be the same for more than one alternative, but may vary in the exception, modification, and waiver language.

Based on current resource conditions, there are many reasons why the number of acres subject to major or moderate lease stipulations is proposed to increase when compared to current management. For example, one reason is an increase in acreage subject to major or moderate lease stipulations for the protection of Special Status Species, such as the Greater Sage-Grouse, as well as sensitive vegetation. Differing levels of protection were analyzed among alternatives (Grand Junction PRMP/FEIS, Table 2-5).

The PRMP/FEIS fully analyzed the impacts of the lease stipulations (see Chapter 4 of the PRMP/FEIS) for each alternative. Based on the impacts analysis performed, the BLM determined that the stipulations considered are not overly restrictive, and are necessary to meet the goals and objectives of the PRMP/FEIS.

***Federal Land Policy Management Act***

**Issue Number:** PP-CO-GJ-15-03-6

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** As explained in the Comment Letter, BLM fails to comply with FLPMA, by which BLM is required to manage public lands under the principles of multiple use and sustained yield, and in

accordance with applicable land use plans, to meet the needs of present and future generations. 43 U.S.C. § 1701(a)(7), (8) & (12); 43 U.S.C. § 1732(a) & (b); 43 C.P.R. § 1610.5-3.

**Issue Number:** PP-CO-GJ-15-05-4

**Organization:** Oxy Usa, Inc.

**Protestor:** Chris Clark

**Issue Excerpt Text:** The preferred alternative is inconsistent with the BLM's multiple use and sustained yield mandate. The BLM suggests it seeks to "provide an overall balance between the protection, restoration, and enhancement of natural and cultural values, while allowing resource use and development in existing or reasonable locations," but the Proposed RMP would more than double the amount of acreage currently unavailable for oil and gas leasing. Furthermore, the BLM proposes to impose restrictive stipulations on those areas that remain open for leasing and many areas in and around federal and private leasehold interests that may impact access to those leases. Oxy respectfully requests the BLM re-evaluate the extent to which the BLM proposes to eliminate access to these important local, national, and international resources.

**Issue Number:** PP-CO-GJ-15-03-15

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** Discussion of Wilderness Study Areas and Lands with Wilderness Characteristics  
Black Hills protests BLM's proposal to manage the Bangs, Maverick and Unaweep lands with wilderness characteristics units (WICU) to protect their wilderness characteristics. BLM lacks the authority to

protect lands with wilderness characteristics solely to protect "wilderness" as wilderness and "wilderness characteristics" are not a use of public lands, but mere designations of public lands. See 43 U.S.C. §§ 1782, 1702(1) (wilderness characteristics are not a stated use of public lands). BLM's authority to inventory public lands does not provide any specific authority to designate and protect lands for wilderness "characteristics." BLM's authority to designate wilderness study areas ended over 20 years ago. Thus, BLM's preferred alternative to protect lands solely for the preservation of wilderness value violates FLPMA's mandate to manage public lands for multiple use and sustained yield.

**Issue Number:** PP-CO-GJ-15-12-70

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/Rein VanWest

**Issue Excerpt Text:** The Grand Junction Proposed RMP fails to balance conservation with development across the planning area. While we appreciate that BLM proposes to manage some lands to protect wilderness characteristics, and that BLM would ascribe a variety of administrative designations and other conservation management to some lands and resources in the Grand Junction Field Office, the proposed plan would still protect only 4% of the public lands for wilderness characteristics and would designate 2,375 miles of motorized routes. This does not represent balanced management for the multiple uses of our public lands, which include wilderness and wildlife values in addition to primitive recreation experiences.

**Summary:**

Grand Junction RMP/FEIS Violates FLPMA's Multiple Use mandate by which BLM is required to manage public lands under the principles of multiple use and sustained yield, and in accordance with applicable land use plans, to meet the needs of present and future generations.

- the Proposed RMP would more than double the amount of acreage currently unavailable for oil and gas leasing and impose restrictive stipulations on those areas that remain open for leasing and many areas in and around federal and private leasehold interests that may impact access to those leases
- The Proposed RMP would still protect only 4% of the public lands for wilderness characteristics and would designate 2,375 miles of motorized routes

**Response:**

Section 102(a)(7) of FLPMA declares that it is the policy of the United States that management of the public lands be on the basis of “multiple use” and “sustained yield”. Section 103(c) defines "multiple use" 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 responsible for the complicated task of striking a balance among the many competing uses of public land. The BLM’s multiple-use mandate does not require that all uses be allowed on all areas of the public lands. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses which involves tradeoffs between competing uses.

While currently about 445,000 acres of BLM-managed lands within the planning area are open to cross-country motorized use, the Proposed RMP would leave no areas open to cross-country motorized use, in order to address resource conflicts (Grand Junction PRMP/FEIS, p. 2-7). In addition, while currently about 35,300 acres of BLM-managed lands within the planning area are closed to motorized use, the Proposed RMP would increase this closure to 126,200 acres in order to address resource conflicts (Grand Junction PRMP/FEIS, p. 2-7).

While FLPMA does identify mineral exploration and development as a “principal or major use,” Section 102 (8) of FLPMA also states that BLM “where appropriate, will preserve and protect certain public lands in their natural condition.” Accordingly, the Grand Junction PRMP/FEIS restricts oil and gas activities on certain public lands and applies various restrictions appropriate for the protection of other resource uses and values, such as recreational opportunities, state wildlife areas, and wilderness characteristics.

***Wild and Scenic Rivers Act***

**Issue Number:** PP-CO-GJ-15-07-2

**Organization:** American Whitewater

**Protestor:** Nathan T. Fey

**Issue Excerpt Text:** The Bureau of Land Management's decision to find 8.24 miles of the Dolores River, from BLM-private

boundary in Section 24, T50N R19W, New Mexico P.M to the Colorado-Utah border, NOT SUITABLE for designation is inconsistent with the National Wild and Scenic Rivers Act.

**Issue Number:** PP-CO-GJ-15-07-4  
**Organization:** American Whitewater  
**Protestor:** Nathan T. Fey

**Issue Excerpt Text:** The Bureau of Land Management's decision to find 8.24 miles of the Dolores River, from BLM-private boundary in Section 24 to the Colorado-Utah border, NOT SUITABLE for designation is inconsistent with the National Wild and Scenic Rivers Act. In the Proposed Resource Management Plan/Final Environmental Impact Statement the BLM made the non-suitable determination in response to concerns of the State of Colorado that "if this river segment...were to

be designated into the National Wild and Scenic Rivers System, the designation would include a federal reserved water right." While the State of Colorado believes that designation under the WSRA automatically grants a Federal Reserve water right, in practice federal reserved water rights have not always been claimed if alternative means are adequate for protecting the waterway. Speculation over future development of water rights is unconstitutional under Colorado Law, and should not be the basis for eliminating the suitability determination for the Dolores River.

**Summary:**

The Bureau of Land Management's decision to find 8.24 miles of the Dolores River, from BLM-private boundary in Section 24 to the Colorado-Utah border, NOT SUITABLE for designation is inconsistent with the National Wild and Scenic Rivers Act because the BLM misapplied criteria.

**Response:**

The Grand Junction PRMP correctly applied the criteria for suitability determination as described in Appendix C, Wild and Scenic Rivers Suitability Report. The purpose of the suitability phase of the study process is to determine whether eligible segments would be appropriate additions to the NWSRS by considering tradeoffs between corridor development and river protection. The PRMP's Wild and Scenic River suitability study and non-suitability decision for this 8.24-mile segment of the Dolores River are also in compliance with BLM Manual 6400, which the PRMP cites as an informational source in evaluating segments for suitability (Grand Junction PRMP/FEIS, Appendix C, p. 2-4).

The 1976 and 1979 Dolores River Wild and Scenic Study Reports were created in response to Congressional direction to study the Dolores River under Section 5A of the Wild and Scenic Rivers Act. Rivers studied under Section 5A receive interim management protection for only three years from the date of the study report. Once that three year period passes, determinations made in a Section 5A study report do not control the findings that BLM may make when subsequently conducting a study under Section 5D of the Wild and Scenic Rivers Act.

The State of Colorado expressed concerns regarding potential federal reserved water rights for the approximately 1-mile segment of the Dolores River at the Utah-Colorado border (6th P.M., T. 15 S., R. 104., secs, 17 and 18 ). By law, designated rivers always include a federal reserved water right, even if in practice the managing agencies have not quantified, adjudicated, and enforced that water right. In addition, the federal reserved water right is created even in segments that are subject to interstate water allocation compacts, and this segment of the Dolores River is subject to the existing Colorado River interstate compact. Therefore, the BLM correctly



analyzed the State of Colorado concern regarding potential federal reserved water rights for this approximately 1-mile segment, concluding that if the river is designated by Congress, the federal reserved water right that comes with designation could create water delivery obligations for the State of Colorado, depending upon how the Colorado River Compact is administered. Specifically, the State of Colorado was concerned that a water delivery obligation in this location might restrict the state's ability to utilize water within the Dolores River basin that would be available to the state under the interstate compact. The PRMP/FEIS Appendix C, Wild and Scenic Rivers Suitability Report, explains the BLM's suitability/non-suitability determination for various segments of the Dolores River. Appendix C explains on page 3-36 that the BLM assessed that a "not suitable" determination for certain other portions of this 8.24 mile segment of the Dolores River would minimize potential conflicts between private landowners and the protective provisions of the Wild and Scenic Rivers Act.

### ***Endangered Species Act***

**Issue Number:** PP-CO-GJ-15-11-4

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** The FEIS suggests that BLM and the Service plan to rely on the 2008 "Programmatic Biological Opinion for Water Depletions Associated with Bureau of Land Management's Fluid Mineral Program within the Upper Colorado River" (PBO) instead of completing a formal consultation regarding the effects of the PRMP's water depletion effects on the endangered fish. FEIS 6-195 The Reasonably Foreseeable development scenario in the RMP does not exceed the amount of water depletions consulted on in the Programmatic Biological Opinion." The Service and BLM cannot reasonably rely on the PBO, because it did not anticipate the full scope of water use required by the PRMP and other fluid mineral development activities in the Upper Colorado River Basin. In addition, the PRMP lacks adequate measures to reduce the increased risk of spills and leaks that the PRMP poses to endangered fish and their habitat in the Upper Colorado Basin, as well as effective measures that will reduce the risk of selenium contamination from increased surface disturbance. Before

approving the PRMP, the Service and BLM must (1) formally consult or reinitiate formal consultation regarding the PRMP's water depletion effects on the endangered fish; (2) complete formal consultation regarding the increased risk of spills and leaks from oil and gas development on the endangered fish; and (3) formally consult over the PRMP's selenium contamination impacts on the endangered fish.

**Issue Number:** PP-CO-GJ-15-11-6

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** In the alternative, the Service and BLM must reinitiate formal consultation regarding the water depletion impacts of all Upper Colorado Basin fluid mineral development on the endangered fish. "Re-initiation of formal consultation is required and shall be requested by the Federal agency or by the Service, where discretionary Federal involvement or control over the action has been retained or is authorized by law and if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered." 50 CFR § 402.16(b). New information

reveals that horizontal drilling, hydraulic fracturing, and other related infrastructure projects in the GJFO planning area will require water depletions “to an extent not previously considered.”

**Issue Number:** PP-CO-GJ-15-11-4

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** BLM Must Provide the Public an Opportunity to Review the Biological Assessment for the PRMP and the Service’s Consultation.

Once BLM and the Service complete formal consultation, the agencies must provide the public an opportunity to review the agencies’ analyses and conclusions. Thus far, the public has had no opportunity for meaningful input into the consultation process between BLM and Fish and Service

regarding the PRMP’s effects on various listed species. The CEQ regulations provide: “To the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently with and integrated with environmental impact analyses and related surveys and studies required by the... Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)...” § 40 C.F.R. § 1502.25(a). Yet, the FEIS still does not include BLM’s Biological Assessment or any studies prepared by the Service. Rather, “copies of the Biological Assessment and the USFWS’s Biological Opinion will be provided as appendices to the Approved RMP/Record of Decision.” FEIS 5-3. To ensure that the public has a fair chance to review the Biological Assessment and Biological Opinion, BLM must allow the public an opportunity to comment on these documents in a recirculated SEIS.

### **Summary:**

The USFWS and BLM cannot reasonably rely on the Programmatic Biological Opinion because it did not anticipate the full scope of water use required by the PRMP and other fluid mineral development activities in the Upper Colorado River Basin.

### **Response:**

The BLM worked with USFWS to develop a Biological Assessment based on the PRMP/FEIS. That Biological Assessment - based on the PRMP/FEIS - was formally submitted to USFWS October 3, 2014. USFWS provided input on planning issues, data collection and review, and alternatives development including the scope of water use and other fluid mineral development activities in the Upper Colorado River Basin. USFWS has formulated a Biological Opinion for this PRMP/FEIS effort. Copies of the Biological Assessment and the USFWS Biological Opinion will be provided as appendices to the Approved RMP/Record of Decision.

The BLM is in compliance with the Endangered Species Act (ESA), specifically Section 7(c), which requires Federal agencies to consult with USFWS to ensure that its actions are not likely to jeopardize the continued existence of any listed species (Section 5.2.3).

## ***NEPA – Climate Change***

**Issue Number:** PP-CO-GJ-15-06-5

**Organization:** Citizens for Clean Air

**Protestor:** Karen Sjoberg

### **Issue Excerpt Text:**

Here, the agency violated NEPA by relying on analysis that partially disclosed the amount of GHG pollution from foreseeable oil and gas development, but failed to take the essential next step: disclosing the costs and impacts that such pollution would have. An economic cost-benefit must be performed before the agency authorizes the proposed development. At the very least, failing to provide any cost-benefit analysis is impermissible according to the agency's multiple legal obligations, including NEPA, EO 12866, as well as BLM's own policy IM No. 2013-131.

**Issue Number:** PP-CO-GJ-15-11-23

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** The EIS Must Analyze the PRMP's Indirect Impacts, Including the Effect of Increased Carbon Dioxide and Methane Emissions on Climate. The EIS fails to provide any analysis of the consequences of carbon emissions that would result from the PRMP's implementation.

**Issue Number:** PP-CO-GJ-15-11-25

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** BLM does have tools available to provide one approximation of external costs, and is required to at least provide a reasonable justification should it elect to not use those tools. Perfect accuracy is not required: "reasonable forecasting and speculation is implicit in NEPA." *Scientists' Inst. For Pub. Info, Inc. v. Atomic Energy Comm'n*, 481 F.2d 1079, 1092 (D.C. Cir. 1973). BLM has previously performed such analyses in prior environmental reviews.<sup>95</sup>

Its own internal memo identifies one available analytical tool: "For federal agencies the authoritative estimates of [social cost of carbon] are provided by the 2013 technical report of the Interagency Working Group on Social Cost of Carbon, which was convened by the Council of Economic Advisers and the Office of Management and Budget."

**Issue Number:** PP-CO-GJ-15-11-27

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** The EIS must be revised to provide a full accounting of the PRMP's climate change impacts, when analytical tools are available to assess these impacts.

**Issue Number:** PP-CO-GJ-15-13-2

**Organization:** Individual

**Protestor:** Joan Woodward

**Issue Excerpt Text:** In addition, there is the elephant in the room: climate change. This is an absolutely urgent matter. We cannot delay action on the grounds that other countries are doing so. We must move forward (and away from fossil fuels) as rapidly as possible, to minimize what are likely to be catastrophic consequences of inaction. The fear of economic consequences for our oil and gas industry workers are not only unfounded (alternative energy can supply other jobs), but cruelly oblivious to the deadly consequences which will befall poorer nations if emissions are allowed to continue to grow. BLM has totally failed to consider this vital issue in its "cost-benefit" analysis. See NEPA, EO 12866 and BLM's IM No. 2013-131.

**Summary:**

- The analysis failed to account for the full lifecycle of oil and gas production on greenhouse gas (GHG) emissions, to consider oil and gas development in the planning area from the cumulative impacts of the oil and gas sector on GHG emissions.
- The BLM failed to address the uncertainties associated with methane's warming impacts and, as a consequence, failed to ensure that potentially significant impacts are not underestimated or ignored.

**Response:**

The BLM adequately analyzed the impacts of climate change in accordance with NEPA and the DOI policy. DOI Secretarial Order 3226 (January 19, 2001), which was reinstated by DOI Secretarial Order 3289 (February 22, 2010), calls on each DOI Bureau and office to consider and analyze potential climate change impacts when undertaking long-range planning exercises. The GJFO PRMP/FEIS analyzed potential climate change impacts on Colorado and Regional Resources in Sections 3.2.2 and 4.3.1, including a discussion of current conditions, trends and predictions. Because specific climate change predictions are not readily available for most of the GJFO analysis area, climate change trends were summarized for western Colorado (GJFO PRMP/FEIS, 2014, p. 3-20). This PRMP/FEIS met the requirements to analyze climate change in long-range planning exercises.

Section 4.3.1 of the GJFO PRMP/FEIS analyzes the potential impacts on climate change associated with management activities proposed for each of the alternatives. The BLM included qualitative and quantitative evaluations of potential contributing factors to climate change within the planning area where appropriate and practicable. Noting that the primary activities that generate GHG emissions within the planning are construction and operation of oil and gas facilities, the BLM included a quantitative analysis of GHG emissions from such oil and gas projects (GJFO PRMP/FEIS, 2015, Table 4-2).

Furthermore, while the BLM identified the uncertainties and assumptions associated with the analysis and acknowledges that the assessment of climate changing pollutant emissions and climate change is in its formative phase, the analysis stated that methane emissions from oil and gas activities—primarily as fugitive emissions from natural gas production and gas venting during well completion—would have the greatest global warming impact of the three GHGs, notwithstanding total estimated carbon dioxide emissions being the greatest in absolute quantity of the three GHGs emitted (GJFO PRMP/FEIS, 2015, pp. 4-42 – 4-56). The BLM provided for best management practices and a Comprehensive Air Resources Protection Protocol (CARPP) for oil and gas development, identified in Appendix H and Appendix G of the GJFO PRMP/FEIS respectively, as potential measures that may reduce or capture methane and other GHG emissions. The BLM also noted that the continuous implementation of the CARPP would allow for ongoing air quality analysis to ensure that impacts are within the expected range evaluated in this PRMP/FEIS (GJFO PRMP/FEIS, 2015 p. 4-16).

To put the GHG emissions into context for the public and the decision maker, the analysis presents estimates of national GHG emissions and the contributions to these national emissions by major economic sector, identifies oil and gas development and operations as the primary

activities within the planning area that generate GHG emissions, and compares the quantitative estimates of GHG emissions from oil and gas activities under each alternative with state and national GHG emissions estimates (GJFO PRMP/FEIS, 2015, pp. 4-42 – 4-56).

### ***NEPA – Recreation Impacts Analysis***

**Issue Number:** PP-CO-GJ-15-16-6

**Organization:** Quiet Trails Group, Western Colorado Congress

**Protestor:** Janice Shepherd/Dave Reed

**Issue Excerpt Text:** The BLM appears not to have considered the impacts on natural soundscape of the noise from target shooting. The PRMP refers repeatedly to the impacts of the noise from motorized use and from oil/gas drilling and production, but the PRMP does not mention the much louder impact of target shooting, which is typically in the range of 150 to 170 decibels (<http://www.freehearingtest.com/hia/gunfirenoise.shtml> ).

**Issue Number:** PP-CO-GJ-15-16-8

**Organization:** Quiet Trails Group, Western Colorado Congress

**Protestor:** Janice Shepherd/Dave Reed

**Issue Excerpt Text:** The noise impacts from target shooting were not considered in the PRMP for target shooting within the Bangs SRMA Zone 4 and the overlapping Bangs LWC. Management objectives and plans for Bangs SRMA Zone 4 and the Bangs LWC are inconsistent with excessive human produced noise. Comments were made pointing out that excessive noise is in conflict with the enjoyment of a quiet experience. Therefore target shooting should be prohibited in Bangs SRMA and Bangs LWC.

### **Summary:**

The Grand Junction PRMP/FEIS violates NEPA by failing to adequately analyze the impacts of noise related to recreational target shooting.

### **Response:**

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)).

Sections 3.6.2 and 4.4.3 of the GJFO PRMP/FEIS provide a general analysis of impacts from target shooting. A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad rather than on site-specific actions or activities. Noise impacts from recreational target shooting are very short-term and highly localized in nature. As most recreational target shooting is concentrated in a few areas (see Grand Junction PRMP/FEIS, p. 3-245 to 3-247), it is not expected that noise impacts from recreational target shooting would be widespread or ongoing throughout the planning area, and therefore, was not discussed in detail.

## *NEPA – Oil & Gas Impacts Analysis*

**Issue Number:** PP-CO-GJ-15-03-31

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** This significantly reduced window for exploration and development activities concentrates environmental impacts to a short period of time, which could result in more, and not less, impacts upon wildlife. Moreover, from an economic impact standpoint, this reduced operational window would result in less development, less investment, and less full-time meal jobs and economic benefits for the local communities. The RMPA does not analyze or address any of the potential economic impacts, or the environmental impacts of these restrictive and narrow development time-frames. To comply with FLPMA and NEPA, and to provide for informed decision-making, the RMPA/FEIS needs to analyze the cumulative impacts of management prescriptions, stipulations, and access restrictions upon minerals management and development, including both the economic and environmental impacts from these narrow operational windows.

**Issue Number:** PP-CO-GJ-15-11-11

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** The EIS Fails to Disclose the PRMP's Water Depletion Impacts. The EIS's discussion of the amount of freshwater that fluid mineral development will consume in the GJFO planning area is wholly inadequate. It essentially notes that "with more companies recycling water and utilizing this water to fracture wells, it is difficult to get exact amounts of freshwater

used." FEIS 6-199. NEPA requires, however, that if "incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement" [40 C.F.R. 1502.22(a)]. Here, the EIS does not explain why this information is not obtainable, much less show that "the overall costs of obtaining it" are "exorbitant." Indeed, BLM can easily obtain this information. Public comment requested a description of how much water will be required by increased drilling in the plan area, including hydraulic fracturing.

**Issue Number:** PP-CO-GJ-15-11-13

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** Even if BLM cannot project water use because "the overall costs of obtaining it are exorbitant or the means to obtain it are not known," BLM must still include in the EIS:

- (1) A statement that such information is incomplete or unavailable;
- (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment;
- (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and
- (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community 40 C.F.R. § 1502.22(b)(1).

**Issue Number:** PP-CO-GJV-15-11-15

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text** Without providing any systematic review of the various causes of leaks and spills throughout the GJFO planning area, the EIS fails to inform whether these spills can actually be mitigated, much less provide an adequate discussion of mitigation measures and whether those measures will be effective in preventing accidental releases.

**Issue Number:** PP-CO-GJ-15-11-17

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text :** The EIS also fails to discuss the effectiveness of mitigation measures to reduce the impacts of spills. This includes groundwater monitoring, secondary containment, FEIS 4-89, buffer zones, id. 6-280, and other BMPs identified in Appendix H. Id. 6-207; see also FEIS 6-276.

**Issue Number:** PP-CO-GJ-15-11-19

**Organization:** Center for Biological Diversity

**Protestor:** Wendy Park, et al.

**Issue Excerpt Text:** The EIS provides no sense of the risk and severity of public health impacts that could potentially result from increased natural gas drilling and hydraulic fracturing operations throughout the GJFO planning area. Ample scientific evidence indicates that well development and well stimulation activities have been linked to an array of adverse human health effects, including carcinogenic, developmental, reproductive, and endocrine disruption effects. The EIS's cursory

discussion of public health impacts does not amount to a "hard look" at the health risks posed by oil and gas development, including hydraulic fracturing. In sum, the EIS must be revised to fully disclose the adverse human health impacts of increased oil and gas drilling and hydraulic fracturing.

**Issue Number:** PP-CO-GJ-15-17-2

**Organization:** Mesa County Commissioners

**Protestor:** Rose Pugliese/John Justman/Scott McInnis

**Issue Excerpt Text:** There is an absence of an analysis of the negative socio-economic impacts and public safety concerns to Mesa County and the surrounding region by as a result of such drastically reduced areas designated for "Open" OHV use.

**Issue Number:** PP-CO-GJ-15-17-7

**Organization:** Mesa County Commissioners

**Protestor:** Rose Pugliese/John Justman/Scott McInnis

**Issue Excerpt Text:** BLM fails to adequately consider the effects its proposed management strategy will have on current and future oil and gas exploration and development activities, and the associated socio-economic impact on Mesa County, its local communities, and the State of Colorado. Both the Federal Land Policy and Management Act ("FLPMA") and NEPA require the BLM to include a sufficient economic analysis as part of its decision-making process for land use planning decisions. The absence of a detailed analysis of the potential fiscal impacts of each alternative attributable to reductions or changes in the number and distribution of new oil and gas wells ignores the important role that oil and gas property tax revenues, Federal Mineral Leasing Tax payments and Colorado State Severance tax payment to

local counties play in the financing of local government services, and it ignores the resultant negative impacts on the quality of

life for residents within Mesa County and surrounding counties.

**Summary:**

The Grand Junction PRMP/FEIS failed to analyze impacts related to fluid minerals management including:

- Socioeconomic impacts
- impacts to water resources;
- impacts to wildlife;
- impacts from spills; and
- Impacts to public health.

The Grand Junction PRMP/FEIS also failed to adequately analyze socioeconomic impacts related to travel management.

**Response:**

*Fluid minerals – socioeconomic impacts:*

The Grand Junction PRMP/FEIS provides an adequate discussion of the environmental consequences of the Proposed Resource Management Plan and alternatives with regard to socioeconomic impacts. As required by 40 CFR § 1502.16, the PRMP/FEIS provides 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." The Grand Junction PRMP/FEIS presented the decision-maker with sufficiently detailed information to aid in determining whether to proceed with the proposed plan or make a reasoned choice among the other alternatives in a manner such that the public could have an understanding of the environmental consequences associated with the alternatives. The Grand Junction PRMP/FEIS also analyzes the potential tax impacts of each alternative with regard to natural gas development (see Table 4-105 through Table 4-111).

*Fluid minerals - impacts from restrictions:*

The BLM analyzed the impacts to fluid minerals management in Section 4.4.5 of the Grand Junction PRMP/FEIS. The Grand Junction PRMP/FEIS specifically acknowledges impacts to oil and gas development opportunities: "Potential lessees should take into account the possibility that such a lease may not allow for maximum extraction and transport of the mineral resources. Potential lessees considering development of leases should consider whether the restrictions can be dealt with through technical or special engineering means. These would both protect the resource or value of concern for a given stipulation and would economically and efficiently produce the mineral resource. Portions of restricted leases may be more costly to develop and produce, and in some cases may not be feasible to develop...Large quantities of oil and gas may not be recoverable from federal mineral estate, depending on the restrictions that apply to the alternative" (Grand Junction PRMP/FEIS, p. 4-370).



*Fluid minerals – impacts to water resources:*

The BLM disclosed impacts to water resources and the possibility of spills from fluid minerals activity on p. 4-91 through p. 4-92: “Direct and indirect negative impacts on water resources from fluid minerals development can occur during the drilling, completion, or operational phases of wells...” Detailed data regarding future water use is not available for use in the Grand Junction PRMP/FEIS as stated: “Variables such as proximity to water recycling plants or other wells make a difference in the volume of fresh water used in hydraulic fracturing. Fresh water is typically only necessary when drilling surface casings while water used during the fracking operation can be recycled. The amount of available water is difficult to ascertain. The State and water courts, not the BLM, implement the water rights program for Colorado. Entities can exercise their water rights according to prior appropriation doctrine. Oil and gas operators are no different. However, with more companies recycling water and utilizing this water to fracture wells, it is difficult to get exact amounts of freshwater used” (Grand Junction PRMP/FEIS, p. 6-199).

*Fluid minerals – impacts to wildlife:*

Section 4.3.3 of the GJFO PRMP/FEIS discusses the impacts to wildlife. The PRMP would establish 10 wildlife emphasis areas on 149,700 acres in order to protect areas with high wildlife value and significance. This strategy would allow the BLM to focus wildlife management efforts in areas that would be most effective to preserve and protect wildlife and to reduce fragmentation (Grand Junction PRMP/FEIS, pp. 4-165, 4-166). Table 2-2 of the GJFO PRMP/FEIS summarizes the decisions associated with wildlife in the PRMP, including lease stipulations that call for minimization and mitigation of impacts to wildlife and wildlife habitat as determined through biological surveys, onsite inspections, effects of previous actions in the area, and BMPs (Grand Junction PRMP/FEIS, pp. 2-93 through 2-125).

The BLM worked with USFWS to develop a Biological Assessment based on the PRMP. That Biological Assessment - based on the PRMP - was formally submitted to USFWS October 3, 2014. USFWS provided input on planning issues, data collection and review, and alternatives development including the scope of water use and other fluid mineral development activities in the Upper Colorado River Basin. Copies of the Biological Assessment and the USFWS Biological Opinion will be provided as appendices to the Approved RMP/Record of Decision.

*Fluid minerals – impacts on public health:*

The BLM disclosed impacts to public health from fluid mineral activity on p. 4-442: “Lands that are open for fluid mineral leasing have the potential for future health and safety risks related to oil, gas, and geothermal exploration, development, operation, and decommissioning. The number of acres open for leasing is considered to be proportional to the potential for long-term, direct health and safety impacts...”

The Grand Junction PRMP/FEIS discloses that “emissions of hazardous air pollutants could potentially result in localized increased risk of impacts on human health” (Grand Junction PRMP/FEIS, p. 4-24). However, given the low level of Hazardous Air Pollutants anticipated related to BLM management activities (167 tons/year in Year 10 and 190 tons/year in Year 20) (Grand Junction PRMP/FEIS, p. 4-31) and the fact that “the EPA has not established ambient air

quality standards for hazardous air pollutants” (Grand Junction PRMP/FEIS, p. 3-6), it was not necessary to do a detailed cost-benefit analysis of the socioeconomic impacts of air quality.

*Travel management – socioeconomic impacts:*

Under the Proposed RMP, the BLM anticipates a 1% increase in motorized (including OHV), mechanized, and non-mechanized recreation over current recreation levels (Grand Junction PRMP/FEIS, Table 4-90). Using the IMPLAN model, the BLM determined that total spending related to recreation would increase under the Proposed RMP when compared to current recreation related spending (see Table 4-92 through Table 4-94). The Grand Junction PRMP/FEIS also discloses the adverse impacts of crowding: “On GJFO land, for example, population growth drives increasing use by local and out of area visitors. One consequence is that the nature of recreation experiences has changed...from less crowded to more crowded” and that “the crowding might further contribute to [adverse] cumulative affects if it alters the mix of recreational activities or discourages participation in recreation activities” (Grand Junction PRMP/FEIS, p. 4-495).

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

***NEPA – Response to comments***

**Issue Number:** PP-CO-GJ-15-03-3

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** Black Hills timely submitted comments on June 24, 2013 addressing the adequacy and merits of the DRMP/DEIS. Black Hills commented on multiple, specific issues in the DRMP/DEIS, including: (1) BLM's failure to utilize scientifically acceptable methods of analysis, (2) the DRMP/DEIS's proposed unlawful infringement on valid existing rights, (3) the DRMP/DEIS's failure to rely on a valid and accurate reasonable foreseeable development (RFD) scenario, (4) BLM's proposed overreach in protecting threatened, endangered and special status species and their habitat, (5) the DRMP/DEIS's failure to utilize least restrictive lease stipulations for oil and gas

leases and conditions on permits for oil and gas development, (6) BLM's improper proposed designation of South Shale Ridge as an area of critical environmental concern (ACEC), (7) BLM's overreach in attempting to regulate air quality, private lands and waters, (8) the DRMP/DEIS's failure to follow the National Historic Preservation Act, and (9) the DRMP/DEIS's improper proposal to add visual resource management restrictions to existing leases.

Under the National Environmental Policy Act (NEPA), the BLM is required to fully and substantively respond to all relevant public comments. 40 C.P.R. § 1503.4. In the GJFO RMP/FEIS, BLM failed to sufficiently address the majority of the above-listed comments. BLM failed to meet its regulatory obligations to adequately address Black Hills' comments.

**Issue Number:** PP-CO-GJ-15-05-17

**Organization:** Oxy USA, Inc.

**Protestor:** Chris Clark

**Issue Excerpt Text:** Despite clear directives and policy, through the Proposed RMP, the BLM fails to show whether it utilized any science or data to support such a restrictive buffer as 4 miles from leks.

**Issue Number:** PP-CO-GJ-15-12-11

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/Rein van West

**Issue Excerpt Text:** Exhibit G of this protest includes 200 comments submitted by the public addressing resources, values and management considerations for various LWC units. These comments are not acknowledged or responded to in the Proposed RMP, specifically in the Chapter 6 Response to Comments. Thus, BLM has not fulfilled its obligations under NEPA to respond to substantive comments.

**Issue Number:** PP-CO-GJ-15-12-12

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/Rein van West

**Issue Excerpt Text:** BLM must document and respond to all public comments received on the Draft RMP/EIS in compliance with NEPA. BLM's failure to do so with respect to hundreds of substantive comments addressing lands with wilderness characteristics and travel management is evidence that the agency did not give meaningful consideration to: modify alternatives including the proposed action; develop and evaluate alternatives not previously given serious consideration by the agency; supplement, improve, or modify

its analyses; or make factual corrections based on public comments. BLM also did not explain why the comments do not warrant further agency response. BLM must supplement its analysis of these two resource areas using the information submitted by the public during the comment period on the Draft RMP/EIS, consider making changes to the proposed action based on that information, make changes where appropriate, and explain why changes are not being made where that is the decision.

**Issue Number:** PP-CO-GJ-15-12-4

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/Rein van West

**Issue Excerpt Text:** Our organizations and members of the public submitted many substantive comments during the public comment period on the Draft RMP/EIS that BLM did not respond to in the Proposed RMP/FEIS. This is most evident in reviewing Chapter 6 of the Proposed RMP/FEIS, BLM's Response to Comments on the Draft RMP/EIS, and the 2015 Route Designation Reports. However, it is also evident in the fact that BLM did not modify alternatives or analyses based on these comments.

**Issue Number:** PP-CO-GJ-15-12-5

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/Rein van West

**Issue Excerpt Text:** We, the protestants, conducted field inventory of lands with wilderness characteristics (LWC) in the Grand Junction Field Office and submitted

our comprehensive inventory with our comments on the Draft RMP/EIS. (See Exhibits E and F). Our 220-page inventory addressed 23 LWC units covering more than 400,000 acres, was compliant with BLM Manual 6310, and included specific comments on BLM's inventory information, maps, photo documentation, and comments on specific routes. Yet not a single comment included in that inventory is acknowledged or responded to in the Proposed RMP. Chapter 6 of the Proposed RMP/FEIS lists and responds to specific comments on individual LWC units, and BLM neither reprints our comments nor responds to our comments in the Proposed RMP/FEIS.

**Issue Number:** PP-CO-GJ-15-12-9

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/Rein van West

**Issue Excerpt Text:** This is just one example out of 220 pages of detailed inventory comments we submitted during the public comment period on the Draft RMP/EIS that are not acknowledged or responded to in the Proposed RMP/FEIS. There are numerous other instances where our substantive comments have been ignored.

### **Summary:**

The BLM did not respond to comments received on the Grand Junction DRMP/DEIS. The BLM did not modify alternatives or analyses based on comments received on the Grand Junction DRMP/DEIS.

### **Response:**

The BLM is required to assess, consider, and respond to all substantive comments received (40 CFR 1503.4). Substantive comments are those that reveal new information, missing information, or flawed analysis that would substantially change conclusions (BLM Handbook H-1601-1, p. 23-24).

In compliance with NEPA, the BLM considered all public comments submitted on the Draft Grand Junction RMP/EIS. The BLM complied with 40 CFR 1503.4 by performing a detailed comment analysis that assessed and considered all substantive comments received. Chapter 6 of the Grand Junction PRMP/FEIS presents the BLM's responses to all substantive comments. The BLM summarized the issues raised by each comment letter and provided a meaningful response. The BLM's response identifies any modifications to the alternatives, improvements to the impacts analysis, or factual corrections made as a result of public comment. The BLM's response also explains why certain public comments did not warrant further agency response. The BLM is not required to make modifications to alternatives based on public comment if such changes are not warranted.

It is important for the public to understand that BLM's comment response process does not treat public comments as if they were a vote for a particular action. The comment response process ensures that every comment is considered at some point when preparing the Grand Junction PRMP/FEIS.

The BLM considered information regarding lands with wilderness characteristics that was received during comment period on the Grand Junction DRMP/DEIS (Grand Junction PRMP/FEIS, p. 6-128 through 6-138). As discussed in the PRMP/FEIS, “BLM staff is continuing to ground-truth these areas. Inventories are used to guide the decision maker and are updated as information becomes available. If, as inventories are updated through the life of the RMP, new areas are found to have wilderness characteristics, the decision maker will have that information available to them at that time and can choose a new course of action. The BLM is considering options for continuing to update this inventory and provide a mechanism for future decision making. To ensure compatibility with agency policy, the BLM revisited the inventory for several high priority areas” (Grand Junction PRMP/FEIS, p. 6-130). In response to the re-inventory and information provided in public comments, the Bangs lands with wilderness characteristics unit from Alternative C in the Draft RMP/EIS was carried forward in the PRMP/FEIS. See pages 2-152 and 4-292 of the PRMP/FEIS.

### ***NEPA – Significant New Information***

**Issue Number:** PP-CO-GJ-15-01-11

**Organization:** Encana Oil and Gas

**Protestor:** Jason Oates

**Issue Excerpt Text:** Encana did not have a meaningful opportunity to review or submit comments regarding the Shale Ridge and Canyons MLP before the MLP was proposed for the very first time in the Final EIS. As noted above, the BLM specifically indicated in the Draft Grand Junction RMP's Appendix P that the agency would not designate the Shale Ridge and Canyons MLP as part of the amendment process. Draft Grand Junction RMP a pp. P, pg. P-27. In addition, it is wholly inappropriate under NEPA for the BLM to introduce concepts and procedures in the Final EIS for the Grand Junction RMP that were explicitly rejected in the Draft EIS, especially given the limited ability for companies such as Encana to submit comments or react to the new measures once a proposed RMP has been issued. The BLM should have issued a supplemental draft EIS prior to adding the MLP to the Proposed Grand Junction RMP.

**Issue Number:** PP-CO-GJ-15-01-17

**Organization:** Encana Oil and Gas

**Protestor:** Jason Oates

**Issue Excerpt Text** Further, the BLM's inclusion of the Shale Ridge and Canyons MLP in the Proposed RMP violates FLPMA because the public was not provided a meaningful opportunity to comment upon the Shale Ridge and Canyons MLP. The BLM's planning regulations require the public to be provided an opportunity to meaningfully participate in and comment upon preparation of land use plans. The BLM's own planning handbook unequivocally requires the agency to issue a supplement to either the draft or final EIS when "substantial changes to the proposed action, or significant new information/circumstances collected during the comment period" are presented. BLM Land Use Planning Handbook H-1610-1, III.A.10, pg. 24 (Rei. 1-1693 03/11 /05).

**Issue Number:** PP-CO-GJ-15-01-19

**Organization:** Encana Oil and Gas

**Protestor:** Jason Oates

**Issue Excerpt Text:** The BLM's inclusion of the CARPP in the Proposed Grand Junction RMP violates both NEPA and FLPMA because it was not included in the Draft Grand Junction RMP and because BLM did not allow the public an

opportunity to meaningfully comment on the CARPP.

**Issue Number:** PP-CO-GJ-15-01-21

**Organization:** Encana Oil and Gas

**Protestor:** Jason Oates

**Issue Excerpt Text:** The CARPP's provisions were not reasonably included within the range of alternatives presented in the Draft Grand Junction RMP. As such, the BLM should have issued a supplemental draft EIS. 40 C.F.R. § 1502.9(c); BLM Land Use Planning Handbook 1-1-1610-1, II I.A. II, pg. 24 (Rei. 1-1693 03/11 /05).

**Issue Number:** PP-CO-GJ-15-01-22

**Organization:** Encana Oil and Gas

**Protestor:** Jason Oates

**Issue Excerpt Text:** Further, the BLM's inclusion of the CARPP in the Proposed Grand Junction RMP violates FLPMA because the public was not provided a meaningful opportunity to comment upon it. The BLM's planning regulations require the public to be provided an opportunity to meaningfully participate in and comment upon the preparation of land use plans. The BLM's own planning handbook requires the agency to issue a supplement to either the draft or final EIS when "substantial changes to the proposed action, or significant new information/circumstances collected during the comment period" are presented (BLM Land Use Planning Handbook 1-1-1610-1, III.A. I 0, pg. 24). Because the CARPP is unquestionably a "substantial change" when compared to the alternatives included in the Draft Grand Junction RMP, the BLM should have prepared and released for comment a supplement to the Draft Grand Junction RMP.

**Issue Number:** PP-CO-GJ-15-01-4

**Organization:** Encana Oil and Gas

**Protestor:** Jason Oates

**Issue Excerpt Text:** Encana protests substantial changes made between the draft and Proposed Grand Junction RMP without notice and an opportunity for public comment. In particular, Encana protests the unexpected adoption of the Shale Ridge and Canyons Master Leasing Plan (Shale Ridge and Canyons MLP), Proposed Grand Junction RMP, pgs. 2-380-2-408, Maps 3-21 -3-22, 4-1 -4-8; and the promulgation of the Comprehensive Air Resources Protection Protocol (CAR PP), Proposed Grand Junction RMP app. G.

These proposed changes violate both NEPA and FLPMA because they were not included or were rejected in the Draft Grand Junction RMP and because BLM did not allow the public an opportunity to meaningfully comment on these provisions.

**Issue Number:** PP-CO-GJ-15-16-2

**Organization:** Quiet Trails Group/Western Colorado Congress

**Protestor:** Janice Shepherd/Dave Reed

**Issue Excerpt Text:** Changing the north-east section of Zone 3 within the Bangs SRMA from foot and horse emphasis to motorized emphasis was not within the range of alternatives in the DRMP nor requested by a public comment.

**Issue Number:** PP-CO-GJ-15-16-4

**Organization:** Quiet Trails Group/Western Colorado Congress

**Protestor:** Janice Shepherd/Dave Reed

**Issue Excerpt Text:** As no alternative in the DRMP had West Horse Mesa and the surrounding slopes in a motorized emphasis area, no analysis was done of the environmental effects of that motorized emphasis. Page 1-26 in the PRMP incorrectly states that the analysis was completed under Alt A in the DRMP. Alt A

in the DRMP and PRMP has West Horse Mesa in a "primitive backcountry area."

**Issue Number:** PP-CO-GJ-15-17-16

**Organization:** Mesa County  
Commissioners

**Protestor:** Rose Pugliese/John  
Justman/Scott McInnis

**Issue Excerpt Text:** Additionally, the BLM's inclusion of Comprehensive Air Resources Protection Protocol ("CARPP") violates NEPA and FLPMA. CARPP was not included in the DRMP, and as a result, the public did not have an opportunity to comment on CARPP and its relationship to the DRMP. The DRMP included the Air Resources Management Plan, which was replaced by CARPP in the PRMP. The change from the use of the Air Resources Management Plan in the DRMP to CARPP in the PRMP was a significant and substantial change which clearly warrants further public review and input, or the amendment of the PRMP to reflect the use of the Air Resources Management Plan.

**Issue Number:** PP-CO-GJ-15-17-18

**Organization:** Mesa County  
Commissioners

**Protestor:** Rose Pugliese/John  
Justman/Scott McInnis

**Issue Excerpt Text:** The inclusion of the MLP in the PRMP deprived the public and local governments of the required

**Summary:**

The BLM failed to comply with NEPA because the Grand Junction PRMP/FEIS includes new decisions and information not discussed in the Grand Junction DRMP/DEIS, including:

- the Shale Ridges and Canyons Master Leasing Plan (MLP);
- the Comprehensive Air Resources Protection Plan (CARPP); and
- management emphasis in the Bangs Special Recreation Management Area (SRMA) and the West Horse Mesa area.

opportunity to make public comment on the MLP.

**Issue Number:** PP-CO-GJ-15-17-4

**Organization:** Mesa County  
Commissioners

**Protestor:** Rose Pugliese/John  
Justman/Scott McInnis

**Issue Excerpt Text:** The PRMP/FEIS fails to consider a full and reasonable range of alternatives for acres open to various uses as required by the National Environmental Policy Act ("NEPA") [CFR § 46.420 (b) and (c)]. For example, acreage analyzed as open to motorized use is very limited: 12,500 acres in Alternative A, zero acres for Alternative C, and 10,200 acres in Alternatives B and D. The PRMP/FEIS fails to address the negative socio-economic impacts of anticipated crowded and unsafe trail use that would result from such a reduction of acres open to motorized use, as required by NEPA (42 U.S.C. § 4332). The cumulative impacts of OHV recreational opportunities in Section 4.4.3 are not quantified and are merely vague qualitative statements which fail to include a rigorous comparison of impacts by each alternative. Shrinking, rather than increasing, the overall open areas in the GJFO will lead to crowding, safety issues, and negative socio-economic impacts.

**Response:**

NEPA requires agencies to prepare supplements to either a draft or final EIS if the agency makes substantial changes to the proposed action that are relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)). “Substantial changes” in the proposed action relevant to environmental concerns are changes that would result in significant effects outside the range of effects analyzed in the draft or final EIS (BLM Handbook H-1790-1, p. 29). A supplemental EIS may also be required when a new alternative is added that is outside the spectrum of alternatives already analyzed and not a variation of an alternative, or a combination of alternatives already analyzed (BLM Handbook H-1790-1, p. 29).

The Grand Junction PRMP/FEIS describes the Master Leasing Plan (MLP) policy and the changes between the DRMP/DEIS and the PRMP/FEIS in Chapter 1, (1.12 and 1.13). While the Shale Ridges and Canyons MLP is new terminology first found in the Grand Junction PRMP/FEIS, the Shale Ridges and Canyons MLP does not differ substantially from management presented in the Grand Junction DRMP/FEIS. The land use plan decisions associated with the Shale Ridges and Canyons Master Leasing Plan (MLP) can be found within the range of alternatives considered in the Grand Junction DRMP/DEIS. For example, no new oil and gas lease stipulations (e.g. No Surface Occupancy, Controlled Surface Use, or Timing Limitations) would be applied to areas within the Shale Ridges and Canyons MLP in a manner that was not analyzed in one alternative of the DRMP/DEIS.

While the Comprehensive Air Resources Protection Protocol (CARPP) is a new appendix included in the Grand Junction PRMP/FEIS, it does not establish any changes to the proposed action in terms of land use plan decisions nor provide any new information. As stated in Appendix G of the PRMP/FEIS, “the CARPP is not a decision document, but rather a strategy to address air quality concerns throughout BLM-managed lands and resources in Colorado. Because the CARPP is not a field office specific management tool, it may be modified as necessary to comport or comply with changing laws, regulation, BLM policy, or to address new information and changing circumstances without maintaining or amending any specific Field Office RMP” (Grand Junction PRMP/FEIS, Appendix G, p. 3). As such, the CARPP is not part of the land use plan decision that will be made in the Grand Junction RMP Record of Decision, but an appendix that was included to “clarify the mechanisms and procedures that BLM will use to achieve the air resources goals, objectives, and management actions set forth in BLM Colorado RMPs” (Grand Junction PRMP/FEIS, Appendix G, p. 3).

The BLM is proposing to manage the Bangs Canyon SRMA using four Recreation Management Zones (RMZs). Specific management objectives are identified for each RMZ. The four RMZs, and their associated management objectives, were analyzed in the GJFO DRMP/DEIS and are being carried forward with boundary adjustments between RMZ 2 and RMZ 3. The boundary adjustments were incorporated to create more logical and definable boundaries (e.g. existing roads), and to facilitate achievement of the identified RMZ objectives.

The BLM has made no substantial changes to the proposed plan relevant to environmental concerns in the Grand Junction PRMP/FEIS, and therefore is not required to prepare a Supplemental EIS.



## *Areas of Critical Environmental Concern*

**Issue Number:** PP-CO-GJ-15-03-10

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks & Theresa Sauer

**Issue Excerpt Text:** The South Shale Ridge ACEC does not meet the relevance and importance criteria under the BLM regulations and BLM Manual 1613 for ACECs. Under BLM Manual 1613, ACEC designations highlight significant resources where special management measures are needed to prevent irreparable damage. The ACEC designation enables land managers to specifically address the relevant and important value and formulate a prescription to manage it. To that end, NS0-12, which is specific to ACECs, states that it is needed to prohibit surface-disturbing activities on the South Shale Ridge in order to protect special status plant species such as the Colorado hookless cactus. GJFO DRMP/DEIS Table 2-2 at 2-69. However, the GJFO DRMP/DEIS already manages for the values it expresses a desire to protect with the South Shale Ridge ACEC designation. For example, NS0-13 protects the occupied habitat of special status species as well as provides surrounding buffer zones for further protection. The NSO stipulation designed specifically for the ACEC is duplicative. ACECs are not to be used as a substitute for wilderness character or wilderness designations. See BLM ACEC Manual at .06. The proposed South Shale Ridge ACEC overlaps the exact boundary of BLM's South Shale Ridge Wilderness Unit. BLM may not utilize the ACEC process to protect this area as a wilderness. The resources deemed necessary for protection through ACEC designation in South Shale Ridge are already sufficiently protected by

alternate protective measures identified in the GJFO RMP/FEIS. There is no need for ACEC designation, and additionally no need for additional NSO stipulations to protect resources within these lands.

**Issue Number:** PP-CO-GJ-15-03-8

**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production

**Protestor:** William Sparks & Theresa Sauer

**Issue Excerpt Text:** The purpose of ACEC designation is to protect small, isolated areas that need special designation and management based on substantial values of national significance. As reflected by FLPMA, 43 U.S.C. § 1702(a), and expressly stated in FLPMA's implementing regulations and BLM policy, "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." BLM IM No. 2003-275 (emphasis added); see 43 C.P.R. § 1610.7(a)(2). BLM's land-use planning regulations expressly state that with respect to ACECs, "substantial significance and values ... requires more than local significance and special worth, consequence, distinctiveness, or cause for concern.").

BLM identifies the South Shale Ridge designation as for the protection of "wildlife and scenic values, in addition to special status plants." GJFO RMP/FEIS Section 6.2.7.9 at 6-316. However, only one species identified in the South Shale Ridge proposed designation is listed under the ESA: the Colorado hookless cactus (GJFO RMP/FEIS

Table D-2 at D-11). Despite its "threatened" designation, the Colorado hookless cactus is widespread. Additionally, the species is already sufficiently protected through the FWS's consultation process, NSO, timing,

and other stipulations in place for the protection of special status species. ACEC designation is inappropriate.

**Summary:**

The BLM violates the ACEC policy by:

- Incorrectly applying relevance and importance criteria to South Shale Ridge
- Proposing to use ACEC process to protect areas for wilderness character or to designate wilderness

**Response:**

The process for considering ACEC, described in 43 CFR 1610.7-2, was correctly considered during the GJFO resource management planning process. The GJFO initially considered 59,071 acres for relevance and importance for the Coon Hollow/South Shale Ridge proposed ACEC and 27,345 acres met the relevance criteria for wildlife resources, natural system supporting plants, and significant scenic values. The Coon Hollow/South Shale Ridge proposed ACEC meets the importance criteria for more than locally significant importance to plants and has qualities that make it fragile, sensitive, irreplaceable, threatened, and vulnerable to adverse change. The area has known populations of Colorado hookless cactus, Naturita milkvetch, adobe thistle, as well as critical winter range for deer and elk. Details of the Coon Hollow/South Shale Ridge proposed ACEC can be found in Appendix D, ACEC Report.

The BLM appropriately considered criteria for ACECs and provides a distinction between ACECs and managing for wilderness characteristics. ” The stipulations in the GJFO PRMP for the proposed Coon Hollow/South Shale Ridge ACEC were developed specifically for the protection of the resources for which the ACEC is being carried forward, including sensitive plant and wildlife habitat and significant scenic values.

As the GJFO PRMP/FEIS explains in Chapter 2 (2.6), designation of additional WSAs was not considered in the alternatives because the BLM’s authority for establishing WSAs ended in 1993.

***Fluid Minerals Policy – Valid Existing Rights***

**Issue Number:** PP-CO-GJ-15-1-26

**Organization:** Encana

**Protestor:** Jason Oates

**Issue Excerpt Text:** The proposed addition of new restrictions, such as NSO, CSU, and TL stipulations, to existing leases is impermissible because it exceeds the BLM's legal authority under FLPMA.

**Issue Number:** PP-CO-GJ-15-1-28

**Organization:** Encana

**Protestor:** Jason Oates

**Issue Excerpt Text:** BLM cannot deprive Encana of its valid and existing lease rights either directly or indirectly through the RMP revision. When it enacted FLPMA, Congress made it clear that nothing within the statute, or in the land use plans

developed under FLPMA, was intended to terminate, modify, or alter any valid or existing property rights. See 43 U.S.C. § 170 I.

**Issue Number:** PP-CO-GJ-15-01-30  
**Organization:** Encana  
**Protestor:** Jason Oates

**Issue Excerpt Text:** In order to ensure the protection of existing lease rights as federal law requires, the BLM promulgated policies regarding the contractual rights granted in an oil and gas lease. First, the BLM 's Planning Manual mandates the protection of existing lease rights. All decisions made in land use plans, and subsequent implementation decisions, will be subject to valid existing rights. This includes, but is not limited to, valid existing rights associated with oil and gas leases. ... " See BLM Manual 1 60 I - Land Use Planning, 160 1.06.G (Rei. 1-1666 I I /22/00). The BLM must comply with the provisions of its planning handbook and recognize existing rights. Any attempts to modify Encana's existing rights would violate the terms of its leases with the BLM and the BLM's own policies.

**Issue Number:** PP-CO-GJ-15-01-32  
**Organization:** Encana  
**Protestor:** Jason Oates

**Issue Excerpt Text:** The BLM cannot modify Encana's valid existing rights by imposing blanket restrictions such as NSO, CSU, and TL stipulations on existing leases through COAs. Proposed Grand Junction RMP, pgs. 2-384 - 2-385. Encana encourages the BLM Director to remove any suggestion that the BLM may impose new restrictions on existing leases from the Proposed Grand Junction RMP, especially on those areas where stipulations are not justified by science.

**Issue Number:** PP-CO-GJ-15-01-34  
**Organization:** Encana  
**Protestor:** Jason Oates

**Issue Excerpt Text:** Encana protests the BLM 's indication it will apply new Visual Resource Management (VRM) prescriptions even on existing leases. Grand Junction Proposed RMP, pgs. 2-138, 2-145, Map 2-6. In particular, Encana is concerned by the BLM's blatant admission that it intends to impose COAs on all new permits to ensure that its new VRM classifications will be met, even on existing leases. The BLM states that "existing leases would retain their rights to access the minerals in the lease, but any new facilities for existing leases would be required to meet VRM objectives."

**Issue Number:** PP-CO- GJ-15-03-12  
**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production  
**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** Black Hills Leases in South Shale Ridge Cannot be Amended to add Additional Lease Stipulations or Other Restrictions Black Hills owns valid existing leases in or adjacent to the South Shale Ridge WCIU and/or ACEC (e.g. COC-69072, COC-69082, COC-69083, COC-69086). These leases cannot be amended to add additional lease stipulations or other restrictions based on land management decisions made in the GJFO RMP/FEIS for South Shale Ridge.

**Issue Number:** PP-CO- GJ-15-03-14  
**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production  
**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** BLM cannot use this RMP process and BLM's land management decisions for South Shale Ridge to add additional lease stipulations or other

restrictions to Black Hills' valid existing lease rights. BLM should document that it has complied with the Court's decision in Wisely, and properly consulted with the FWS over impacts to hookless cactus.

**Issue Number:** PP-CO- GJ-15-03-5  
**Organization:** Beatty & Wozniak on behalf of Black Hills Exploration & Production  
**Protestor:** William Sparks/Theresa Sauer

**Issue Excerpt Text:** Despite Black Hills' and numerous other comments on the DRMP/DEIS, BLM continues to include management prescriptions that may impair, block access to, or otherwise render uneconomic, leased federal oil and gas resources. BLM failed to analyze potential impacts on oil and gas resources to ensure that valid existing leases are not imposed upon or otherwise provide for exception, waiver and modification criteria to afford both regulatory flexibility for BLM, and operational flexibility for operators. BLM must revise the GJFO RMP/FEIS to appropriately recognize its inability to constrain valid existing lease rights such as Black Hills' leases within the GJFO Planning Area.

**Issue Number:** PP-CO- GJ-15-04-2  
**Organization:** Western Energy Alliance/West Slope COGA  
**Protestor:** Kathleen Sgamma/David Ludlam

**Issue Excerpt Text:** Valid Existing Lease Rights: The PRMP stands to impede lessees from exercising their valid existing rights, particularly through the imposition of overly restrictive stipulations and Conditions of Approval (COA). FLPMA requires BLM to ensure that valid existing lease rights are unequivocally protected. In the PRMP, however, BLM proposes new onerous lease stipulations to be attached to the new leases,

and clearly intends to require the terms of the stipulations as COAs on valid existing leases during the permitting process, including no-surface occupancy (NSO), controlled surface use (CSU), and timing limitations (TL).

**Issue Number:** PP-CO- GJ-15-04-3  
**Organization:** Western Energy Alliance/West Slope COGA  
**Protestor:** Kathleen Sgamma/David Ludlam

**Issue Excerpt Text:** BLM makes it clear that timing limitations will be imposed on all oil and natural gas activities within the Grand Junction Field Office regardless of site-specific analysis, and that waivers, exceptions, and modifications will only be granted subject to new disturbance thresholds that did not exist at the time the leases were issued. Such a result is not permissible; as explicitly stated in FLPMA, "All actions...under this Act shall be subject to valid existing rights." The statute does not leave any room whatsoever for discretionary actions that would be contrary to existing terms and stipulations.

**Issue Number:** PP-CO- GJ-15-05-8  
**Organization:** Oxy USA, Inc.  
**Protestor:** Chris Clark

**Issue Excerpt Text:** Nonetheless, in the Proposed RMP and FEIS, the BLM proposes to apply restrictive stipulations, actions, and a range of COAs that could significantly impede or impair the Oxy Leases as well as Oxy ROWs used to access both its federal and private leases if the BLM applies the stipulations outlined in the Proposed RMP to lands covering, surrounding, or near Oxy's Leases and ROWs. For example, the BLM proposes a broad application of the NSO stipulation, which would apply to 670,300 acres of

BLM-managed lands and would specifically cover areas where Oxy holds existing leases and ROWs. See Proposed RMP, Figure 2-43. Where, as here, Oxy does not hold private lands adjacent to many of its leases, Oxy could be unable to access an Oxy Lease and thus its resources within an area designated as NSO. By way of another example, the Proposed RMP proposes to restrict oil and gas operations near domestic water supplies using a groundwater well or spring water (Action W-A11) and avoid and mitigate disturbance to biologic soil crusts which are determined to be key in sustaining proper function and condition of upland soil health (Action S-A4). Neither of these are stipulations; however, each of these could impair Oxy's ability to develop its valid existing rights if imposed on Oxy's Leases or ROWs. Such a result is impermissible because Oxy's leases and ROWs are valid existing rights with which the BLM may not be unreasonably interfere.

**Issue Number:** PP-CO- GJ-15-17-11

**Organization:** Mesa County  
Commissioners

**Protestor:** Rose Pugliese/John  
Justman/Scott McInnis

**Issue Excerpt Text:** The BLM cannot use the RMP process to revise or restrict valid existing lease rights through creation and imposition of new lease stipulations in the form of COAs for drilling permits on valid existing leases. Colorado Environmental Coalition, 165 IBLA 221, 228 (2005).

**Summary:**

The PRMP/FEIS violates valid existing rights by proposing to modify stipulations on existing oil and gas leases.

**Response:**

An oil and gas lease is a valid, existing right, which cannot be modified through the land use planning process (FLPMA, Section 701(h)). Lease stipulations proposed in the Grand Junction FO PRMP would not be applied to existing oil and gas leases.

Specifically, The BLM cannot impose new NSO stipulations or COAs on existing leases that differ from those entered under the original contractual terms.

**Issue Number:** PP-CO- GJ-15-17-11

**Organization:** Mesa County  
Commissioners

**Protestor:** Rose Pugliese/John  
Justman/Scott McInnis

**Issue Excerpt Text:** Despite statutory and regulatory direction under FLPMA, the PRMP/FEIS proposes unduly burdensome restrictions on oil and gas development, and chooses to manage certain lands for uses to the exclusion of oil and gas development, even where there are conflicts with valid existing lease rights. For example, ACECs and areas identified for management of wilderness characteristics already contain numerous oil and gas leases, yet the BLM proposes to restrict an operator's ability to develop its valid existing lease rights. Mesa County protests BLM's decision-making wherein management prescriptions would preclude development of valid existing leases and ultimately result in financial loss to Mesa County and its local communities. The BLM must revise the PRMP to recognize its multiple-use mandate in a manner which includes a recognition of the Nation's need for domestic mineral development, and preserve the economic viability of the oil and gas industry in Mesa County.

The BLM may restrict development of an existing oil and gas lease through Conditions of Approval (COA). However, while COAs may be described generally in the land use planning process; application of COAs at a site-specific level only take place after a project has been proposed and site-specific environmental analyses has been completed. When making a decision regarding discrete surface-disturbing activities [e.g. Application for Permit to Drill] following site-specific environmental review, BLM has the authority to impose reasonable measures as COAs to minimize impacts on other resource values, including restricting the siting or timing of lease activities (43 CFR 3100; 43 CFR 3160; IBLA 2006-213, 2006-226; IBLA 2008-197, 2008-200). In its RMPs, the BLM may identify “general/typical conditions of approval and best management practices” that may be employed in the planning area (BLM Handbook H-1601-1, p. C-24).

The Grand Junction PRMP does not modify existing oil and gas leases, and recognizes valid existing lease rights. All management direction and/or actions developed as part of the BLM planning process are subject to valid existing rights and must meet the objectives of BLM’s multiple-use management mandate and responsibilities (FLPMA Section 202[c] and [e]). Valid existing rights include all valid lease, permit, patent, ROWs, or other land use rights or authorizations in effect on the date of approval of this RMP.

### ***Master Leasing Plan Policy***

**Issue Number:** PP-CO-GJ-15-01-7  
**Organization:** Encana Oil and Gas  
**Protestor:** Jason Oates

**Issue Excerpt Text:** Although this MLP will apply to over half of the total federal mineral acreage in the Grand Junction Planning Area, the BLM unexpectedly included it in the Proposed Grand Junction RMP after explicitly stating in the Draft Grand Junction R M P that the recommended M L P did not meet the requirements of Instruction Memorandum 2010-117.

**Issue Number:** PP-CO-GJ-15-04-8  
**Organization:** Western Energy Alliance/West Slope COGA  
**Protestor:** Kathleen Sgamma/David Ludlam

**Issue Excerpt Text:** The MLP process is duplicative of the RMP process and is an unnecessary tool and restriction on oil and gas leasing. BLM already provides sufficient environmental analysis of every oil and gas location prior to any development through the RMP process, decision to lease process, and site-specific NEPA analysis.

### **Summary:**

The Master Leasing Plan included in the PRMP is duplicative of the RMP process and is included despite the fact that it fails to comply with Instruction Memorandum 2010-117.

### **Response:**

The master leasing plan (MLP) process addresses oil and gas leasing at a more focused level than the broader analysis typically conducted for an RMP (but less site-specific than a master development plan for an operator proposed development). The intention of the process is to

identify oil and gas decisions to apply to future leasing and development (BLM Planning for Fluid Mineral Resources Handbook H-1624-1 Chapter 5). Resource protections such as riparian and habitat protections and required Best Management Practices identified for the MLP area facilitate resolution of conflicts but also enable “bidders to better identify the resource protection costs associated with development of the lease parcels” (BLM Handbook-1624-1).

The preparation of an MLP is required when criteria outlined in Instruction Memorandum 2010-117 are met MLP and may also be completed under other circumstances at the discretion of the Field Manager, District Manager, or State Director.

The MLP should enable field offices to (1) evaluate in-field considerations, such as optimal parcel configurations and potential development scenarios; (2) identify and address potential resource conflicts and environmental impacts from development; (3) develop mitigation strategies; and (4) consider a range of new constraints, including prohibiting surface occupancy or closing areas to leasing.

### ***Lands with Wilderness Characteristics Policy***

**Issue Number:** PP-CO-GJ-15-12-15

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/ReinVan West

27,300 acres should be documented and analyzed together. In this case, the wilderness characteristics that were found by BLM to exist in Bangs Canyon also exist in Bangs West, because no qualifying boundary feature separates the two.

**Issue Excerpt Text:** Several of the boundaries BLM utilized for both Bangs Canyon and the Bangs West units do not meet the above criteria for a Wilderness Inventory Road and thus should be moved to roads or impacts that do meet the criteria.

**Issue Number:** PP-CO-GJ-15-12-20

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Number:** PP-CO-GJ-15-12-17

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** BLM's 2012 LWC Inventory found around 20,400 acres of the Bangs Canyon unit to meet the criteria for LWC. At the same time, the BLM determined that the Bangs West unit did not meet those criteria because of a lack of outstanding opportunities for solitude and primitive and/or unconfined recreation. However, as shown above, the Bangs West and Bangs Canyon unit were divided by arbitrary boundaries that do not meet the criteria for boundary delineation features as laid out in BLM Manual 6310. Because of this fact, both of these units should be

**Issue Excerpt Text:** Because BLM has drawn a boundary to separate the Bangs West and Bangs Canyon units that does not actually exist on the ground. These two units should be combined into one. As a single potential LWC unit instead of two individual ones, the wilderness characteristics of all

analyzed as one, and any wilderness characteristics found in one unit exist in the other.

**Issue Number:** PP-CO-GJ-15-12-21

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** Besides the fact that Bangs West and Bangs are actually a single unit, the area analyzed by BLM as the Bangs West unit has wilderness characteristics of its own. However, BLM cites the frequent use of Ladder and Mine canyons as well as the "lack of topographical variety" on the "flat" mesa tops as the rationale for determining that the Bangs West unit does not provide outstanding opportunities for solitude. BLM states that "the best opportunities for solitude [in the unit are found in] Ladder Canyon and Rough Canyon" but then cites the popularity of these canyons as the reason that they do not provide outstanding opportunities for solitude. This ignores the bulk of the Bangs West unit to the south, where outstanding opportunities for solitude are easily found in the many narrow side canyons and the gently sloping pinyon and juniper covered ramps that lead up to the high mesa tops.

**Issue Number:** PP-CO-GJ-15-12-23

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** The areas identified in BLM's 2012 LWC Inventory as the Bangs Canyon and Bangs West units are actually adjacent and in several locations are not separated by features which qualify as

boundary delineation features according to BLM's own guidance. Bangs Canyon and Bangs West should be inventoried as a single unit and any decisions made on areas within this unit that are determined not to contain wilderness characteristics should be documented with photographs and narrative rationale. The entirety of the combined Bangs Canyon/Bangs West unit is natural, contains outstanding opportunities for solitude and primitive and unconfined recreation, and has numerous supplemental values that contribute to its wilderness characteristics.

**Issue Number:** PP-CO- GJ-15-12-25

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** Several of the boundaries BLM utilized for the Barrel Spring unit do not meet the above criteria for Wilderness Inventory Roads and thus should be moved to roads or impacts that do meet the criteria.

**Issue Number:** PP-CO- GJ-15-12-28

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** If BLM had taken the time to conduct route determinations according to Appendix C in Manual 6310, it would likely have determined that many of these boundary routes do not meet the criteria for Wilderness Inventory Roads or other qualifying features, and thus cannot be used as boundaries for this unit. Because the unit is much larger than the "narrow configuration" drawn by BLM without



supporting documentation, this should not be used as a disqualifying feature for the area's outstanding opportunities for solitude.

**Issue Number:** PP-CO- GJ-15-12-30  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** The area identified in BLM's 2012 LWC Inventory as the Barrel Spring unit is defined by boundaries that do not meet the criteria for Wilderness Inventory Roads or other qualifying boundary features. Because of this, the area analyzed in BLM's inventory is only part of the complete picture for this area.

**Issue Number:** PP-CO- GJ-15-12-36  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** The area identified in BLM's inventory as the County Line unit is defined by boundaries that do not meet the criteria for Wilderness Inventory Roads or other qualifying boundary features. Because of this, the area analyzed in BLM's 2012 LWC Inventory is only part of the complete picture for this area.

**Issue Number:** PP-CO- GJ-15-12-39  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** Several of the boundaries BLM has proposed for the Cow Ridge unit do not meet the criteria for a

Wilderness Inventory Road and thus should be moved to roads or impacts that do meet the criteria.

**Issue Number:** PP-CO- GJ-15-12-41  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** The area identified in BLM's 2012 LWC Inventory as the Cow Ridge unit is defined by boundaries that do not meet the criteria for Wilderness Inventory Roads or other qualifying boundary features. Because of this, the area analyzed in the BLM's draft inventory report is only part of the complete picture for this area.

**Issue Number:** PP-CO- GJ-15-12-44  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** Several of the boundaries BLM has proposed for the East Salt Creek unit do not meet the above criteria for a Wilderness Inventory Road and thus should be moved to roads or impacts that do meet the criteria.

**Issue Number:** PP-CO- GJ-15-12-44  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** One of the boundaries BLM utilized for the Horse Mountain unit do not meet the above criteria for a Wilderness Inventory Road and thus should

be moved to roads or impacts that do meet the criteria.

**Issue Number:** PP-CO- GJ-15-12-48  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** Several of the boundaries BLM utilized for the Hunter Canyon unit do not meet the criteria for a Wilderness Inventory Road and thus should be moved to roads or impacts that do meet the criteria.

**Issue Number:** PP-CO- GJ-15-12-51  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text:** Several of the boundaries BLM utilized for the Lipan Wash unit do not meet the criteria for Wilderness Inventory Roads and thus should be moved to roads or impacts that do meet the criteria.

**Issue Number:** PP-CO- GJ-15-12-53  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text** The area identified in BLM's 2012 LWC Inventory as the Lipan Wash unit is defined by boundaries that do not meet the criteria for Wilderness Inventory Roads or other qualifying boundary features. Because of this, the area analyzed in the BLM's draft inventory report

is only part of the complete picture for this area.

**Issue Number:** PP-CO- GJ-15-12-56  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text** Several of the boundaries BLM utilized for the Main Canyon unit do not meet the criteria for a Wilderness Inventory Road and thus should be moved to roads or impacts that do meet the criteria.

**Issue Number:** PP-CO- GJ-15-12-58  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text** The area identified in BLM's 2012 LWC Inventory as the Main Canyon unit is defined by boundaries that do not meet the criteria for Wilderness Inventory Roads or other qualifying boundary features. Because of this, the area analyzed in BLM's inventory report is only part of the complete picture for this area.

**Issue Number:** PP-CO- GJ-15-12-61  
**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress  
**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text** BLM Manual6310 states that the size criteria for a Lands with Wilderness Characteristics can be met for areas less than 5,000 acres in size if they are contiguous with lands which have been formally determined to have wilderness or

potential wilderness values" including BLM WSAs. BLM Manual 6310 at .06(C)(2)(a)(i)(2)(a). Our inventory of the Little Bookcliffs WSA and surrounding lands shows that BLM failed to identify or analyze several such areas surrounding the unit.

**Issue Number:** PP-CO- GJ-15-12-64

**Organization:** The Wilderness Society/Conservation Colorado/Western Colorado Congress

**Summary:**

The BLM failed to comply with Manual 6310 for delineating boundaries of areas containing wilderness characteristics by:

- Inaccurately applying wilderness inventory road definition
- Inaccurately applying other boundary delineations.

**Response:**

The BLM Colorado accurately interpreted lands with wilderness characteristics policy. As articulated in Section 201 of the FLPMA, the Secretary of Interior (through the BLM), "shall prepare and maintain on a continuing basis an inventory of all public lands and their resources and other values...this inventory shall be kept current so as to reflect changes and conditions and to identify new and emerging resources and other values." From 6310 manual: A wilderness characteristics inventory is the process of determining the presence or absence of wilderness characteristics. The BLM must document existing conditions as opposed to potential future conditions. The BLM may conduct the inventory using available information (e.g., existing maps, photos, records related to range projects, monitoring data) and will field check the information as necessary. This wilderness characteristics inventory process directive does not mean that the BLM must conduct a completely new inventory and disregard the inventory information that it already has for a particular area. Rather, the BLM must ensure that its inventory is maintained. The Grand Junction RMP properly analyzed this inventory as part of the land use planning process, and identified decisions that would protect or preserve the wilderness characteristics within the area (BLM Land Use Planning Handbook H-1601-1, Appendix C, p. 12).

BLM staff continues to update the inventories of lands with wilderness characteristics, and to field check the data analyses for areas, in accordance with guidance provided in BLM Manual 6310, Conducting Wilderness Characteristics Inventory on BLM Lands. Inventories are used to guide the decision maker and are updated as information becomes available. If, as inventories are updated through the life of the RMP, new areas are found to have wilderness characteristics, the decision maker will have that information available to them at that time and can choose a new course of action.

**Protestor:** Nada Culver/Luke Schafer/ReinVan West

**Issue Excerpt Text** Several of the routes surrounding the Little Bookcliffs WSA do not meet the criteria for Wilderness Inventory Roads and thus should not be considered as boundaries to WSA-adjacent parcels.

The BLM did identify and analyze an area smaller than 5,000 acres in size that is adjacent to the Little Bookcliffs WSA. The area is identified in Appendix F of the PRMP/FEIS as the Little Bookcliffs WSA Expansion area. The BLM is continuing to evaluate additional areas of less than 5,000 acres adjacent to WSAs, and will continue to update its inventory accordingly.

With respect to the Bangs Canyon, when making determinations whether or not to manage lands possessing wilderness character for that character, the BLM is given discretion to consider both the effective manageability of the unit and other resources/resource-values that may be present (BLM Manual 6320.06.A.1.a). In all cases, the determination to emphasize other multiple uses as a priority over protecting some areas that possess wilderness characteristics does not preclude the BLM from analyzing impacts to wilderness characteristics in subsequent implementation-level analysis, as required by NEPA.