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4331-16

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CO_FRN_MO4500179856]

Notice of Availability of the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for Big Game Habitat Conservation for Oil and Gas Management in Colorado

AGENCY: Bureau of Land Management.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a proposed Resource Management Plan (RMP) Amendment and Final Environmental Impact Statement (EIS) for Big Game Habitat Conservation for Oil and Gas Management and by this notice is announcing the start of a 30-day protest period of the proposed RMP amendment.

DATES: This notice announces a 30-day protest period to the BLM on the proposed RMP amendment. Protests must be postmarked or electronically submitted on the BLM's ePlanning site within 30 days of the date that the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) in the *Federal Register*. The EPA usually publishes its NOAs on Fridays.

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ADDRESSES: The proposed RMP amendment and final EIS is available on the BLM ePlanning project website at <https://go.usa.gov/xzXxY>. Documents pertinent to this proposal may also be examined at the BLM Colorado State Office, Denver Federal Center, Building 1A, Lakewood, Colorado.

Instructions for filing a protest with the BLM for the Big Game Habitat Conservation for Oil and Gas Management Proposed RMP Amendment and Final EIS can be found at: <https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest> and at 43 CFR 1610.5-2. All protests must be submitted in writing by one of the following methods –

Website: <https://go.usa.gov/xzXxY>; or

Regular mail and overnight mail: BLM Director, Attention: Protest Coordinator (HQ210), Denver Federal Center, Building 40 (Door W-4), Lakewood, CO. 80215.

FOR FURTHER INFORMATION, CONTACT: Alan Bittner, Deputy State Director, Resources, telephone 303-239-3768; address BLM Colorado State Office, Attn: Big Game Corridor amendment/EIS, Denver Federal Center Building 40, PO Box 151029, Lakewood, CO 80215; email BLM_CO_corridors_planning@blm.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Bittner. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

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SUPPLEMENTARY INFORMATION: The RMP amendment would change the following existing plans:

- Eastern Colorado RMP for the Royal Gorge Field Office (2024)
- San Luis Resource Area RMP (1991)
- Gunnison Resource Area RMP (1993)
- Uncompahgre Field Office RMP (2020)
- Colorado River Valley Field Office RMP (2015) and Roan Plateau Amendment (2016)
- Grand Junction Field Office RMP (2015)
- Kremmling RMP (2015)
- Little Snake RMP (2011)
- White River Field Office RMP (1997)
- Tres Rios Field Office RMP (2015)
- Canyons of the Ancients National Monument RMP (2010)
- Gunnison Gorge National Conservation Area RMP (2004)

The proposed RMP amendment addresses alternative approaches for oil and gas management to maintain, conserve, and protect big game high priority habitat (HPH).

The planning area includes all counties in Colorado and encompasses approximately 8.3 million acres of public land and approximately 27 million acres of Federal mineral estate.

The decision area includes all 8.3 million acres of BLM-administered surface land (except where Federal minerals have been withdrawn from mineral leasing) plus

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approximately 4.7 million acres of Federal mineral split estate where the surface is owned by private owners, local government, or the State.

Public Involvement

Formal public scoping for the draft RMP amendment/EIS started with the publication of the notice of intent (NOI) in the *Federal Register* on July 19, 2022 (87 FR 43050). The NOI contained information about the purpose and need, preliminary planning criteria, preliminary alternatives, expected impacts, and information about how to comment. The BLM requested that the public submit scoping comments in response to the NOI by September 2, 2022. Comments were used to inform development of the draft management plan.

The draft RMP amendment/EIS was available for a 90-day public review and comment period beginning with publication of the Notice of Availability (NOA) in the *Federal Register* on November 9, 2023 (88 FR 77350). Issues analyzed in detail in the draft EIS included air quality, geology, fluid minerals, climate, noise and the acoustic environment, lands and realty, soil resources, big game species and habitat, special status species and other wildlife, vegetation, Native American religious concerns, cultural and paleontological resources, socioeconomics and environmental justice, recreation, travel and transportation, and visual resources.

Purpose and Need for the Planning Effort

The purpose of this RMP amendment is to evaluate alternative approaches for oil and gas planning decisions to maintain, conserve, and protect big game corridors and other big game HPH on BLM-administered lands and Federal mineral estate in Colorado.

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Under the authority of section 202 of FLPMA, the BLM also seeks to evaluate consistency with plans, policies, and programs of other Federal agencies, State and local governments, and Tribes, to the extent consistent with Federal laws, regulations, policies, and programs applicable to BLM-administered lands.

This RMP amendment considers current big game population and habitat data and evaluates planning alternatives' consistency with the policies and programs of State agencies that manage big game populations and regulate oil and gas operations in Colorado: Colorado Parks and Wildlife (CPW) and the Colorado Energy and Carbon Management Commission (ECMC).

This RMP amendment process also complies with the terms of the settlement agreement in *State of Colorado v. Bureau of Land Management*, No. 1:21-cv-00129 (U.S. District Court for the District of Colorado).

Alternatives Considered in the Draft EIS

The BLM analyzed four alternatives in detail in the draft RMP amendment, including the no action alternative. Alternative A was the No Action alternative and reflected management decisions in existing approved RMPs, as amended, throughout Colorado. The analysis considered how the BLM is currently managing big game habitat protection and oil and gas development across the State and provided a characterization of the existing environment for comparison with the action alternatives.

Alternative B was based on management alignment with the ECMC rules for oil and gas development in elk, mule deer, pronghorn, and bighorn sheep HPH (Rule 1202.c, d; Rule 1203). Where lands are open to oil and gas leasing under existing RMPs,

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Alternative B prescribed measures consistent with the ECMC rules to conserve HPH.

Alternative B incorporated various oil and gas lease stipulations, including a controlled surface use density limitation of one well pad per square mile in big game HPH and two no surface occupancy stipulations to protect big horn sheep production areas and pinch points (both highway crossing and as mapped), all subject to waivers, exceptions, and modifications in some circumstances.

Alternative C, in addition to incorporating lease stipulations similar to alternative B, applied a 3 percent surface disturbance cap on oil and gas development within big game HPH on BLM surface lands. This limit did not apply to private, local government, or State lands in the decision area. This alternative provided for waivers, exceptions, and modifications to the stipulations in some circumstances.

Alternative D was similar to the other action alternatives in that it also incorporated lease stipulations that aligned the BLM's oil and gas management with ECMC's rules for big game HPH in the decision area. Alternative D included a 3 percent surface disturbance cap on oil and gas development on all lands, regardless of land ownership, within big game HPH in the decision area; the application of this cap was not limited to BLM surface lands as it is under Alternative C. Additionally, unlike Alternatives B and C, this alternative proposed to reduce the area open to leasing of oil and gas. Specifically, big game HPH identified lands with low, moderate, or no known oil and gas development potential that would be closed to new Federal oil and gas leasing.

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The State Director identified Alternative B as the preferred alternative in the draft EIS.

Public Input Received

During the public comment period on the draft EIS, the BLM received a total of 746 comment submissions. Submissions were focused on suggestions for specific alternatives or alternative elements, statements pertaining to the cumulative effects analysis, best available science and data, and detailed input pertaining to various resource topics analyzed in the draft EIS such as big game species, air quality and climate, social and economic conditions, and fluid mineral development.

Changes between the Draft EIS and the Final EIS

Based on public feedback on the draft EIS, the BLM has updated the final EIS. The BLM has provided responses to substantive comments in Appendix O. The BLM developed a new alternative, Modified Alternative B. The new alternative includes updated big game HPH from December 2023 CPW data. The new alternative also includes management guidance for assessing route density in addition to the existing Controlled Surface Use stipulation applicable to active oil and gas facilities. Minor language changes were made throughout the plan to provide clarity.

Summary of the Proposed RMP Amendment

The State Director's proposed alternative in the proposed RMP amendment/final EIS is Modified Alternative B. This alternative aligns BLM management of oil and gas in high priority wildlife habitats with the ECOMC rules for oil and gas development in elk, mule deer, pronghorn, and bighorn sheep HPH (Rule 1202.c, d; Rule 1203). Modified

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Alternative B includes additional management guidance for enhanced coordination and use of best available science and information during implementation. Where lands are open to oil and gas leasing under existing RMPs, Modified Alternative B prescribes measures consistent with the ECOMC rules to conserve seasonal habitats and connectivity within big game HPH in support of CPW's big game population objectives. Modified Alternative B incorporates a Controlled Surface Use stipulation that limits facility density to no more than one active oil and gas location per square mile in big game HPH. A consideration of CPW recommendations for route density is included as an objective and as a lease notice to further guide implementation. Existing disturbance may also be used to inform implementation. The plan would require operators to develop and implement mitigation plans to minimize and offset direct, indirect, and cumulative adverse impacts.

The BLM considers potential mitigation in compliance with Council on Environmental Quality, Department of the Interior, and BLM guidance. Mitigation would provide a conservation benefit to big game species when impacts from oil and gas development activity are not avoidable. Consistent with valid existing rights and applicable law, when oil and gas development results in habitat loss or degradation within big game HPH, the BLM will require and ensure mitigation that provides a conservation benefit to the species, including accounting for any uncertainty associated with the effectiveness of such mitigation.

Modified Alternative B calls for the BLM to consider alternative locations for oil and gas operations that either avoid big game HPH altogether, or, where avoidance is not feasible, minimize adverse impacts to the maximum extent possible. The action

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alternatives include a surface density limitation that would require the operator to address direct and unavoidable adverse indirect impacts through compensatory mitigation. This includes avoidance, minimization, and mitigation strategies in subsequent implementation-level NEPA analyses for proposed actions that may result in big game HPH loss and degradation. Subsequent implementation-level mitigation could limit the duration and extent of development activities in big game HPH through all phases of development by avoiding activities in HPH, applying surface density and timing limitations, and mitigating residual impacts. The BLM may also require compensatory mitigation to offset disturbance or density limitation exceedances and direct and unavoidable adverse indirect impacts that result in the functional loss of habitat from oil and gas development in big game HPH. The BLM, after coordination with CPW, will determine whether compensatory mitigation proposed by the operator is sufficient to protect big game HPH from direct and unavoidable adverse indirect impacts.

The BLM has the discretion to require an operator to modify surface operations to change or add specific mitigation measures when supported by scientific analysis and consistent with existing rights. Potential mitigation or conservation measures not already required as stipulations would be analyzed in a site-specific NEPA document and incorporated, as appropriate, as conditions of approval of the permit, plan of development, or other use authorization. In discussing surface use rights, 43 CFR 3101.1–2 states that the lessee has the right “to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource.” However, lessees are subject to lease stipulations, nondiscretionary statutes,

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and, as identified in 43 CFR 3101.1-2, “such reasonable measures as may be required by the authorized officer to minimize adverse impacts to other resource values, land uses or users not addressed in the lease stipulations at the time operations are proposed.”

Protest of the Proposed RMP Amendment

The BLM planning regulations state that any person who participated in the preparation of the RMP amendment and has an interest that will or might be adversely affected by approval of the proposed RMP amendment may protest its approval to the BLM. Protest on the proposed RMP amendment constitutes the final opportunity for administrative review of the proposed land use planning decisions prior to the BLM adopting an approved RMP amendment. Instructions for filing a protest regarding the proposed RMP amendment with the BLM Director may be found online (see **ADDRESSES**). All protests must be in writing and mailed to the appropriate address or submitted electronically through the BLM ePlanning project website (see **ADDRESSES**). Protests submitted by any other means will be invalid. The BLM will render a written decision on each protest. The protest decision of the BLM shall be the final decision of the Department of the Interior. Responses to valid protest issues will be compiled and documented in a Protest Resolution Report made available following the protest resolution online at: <https://www.blm.gov/programs/planning-and-nepa/public-participation/protest-resolution-reports>. Upon resolution of protests, the BLM will issue a Record of Decision and Approved RMP.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest – including your

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personal identifying information – may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2, 43 CFR 1610.5)

Douglas J. Vilsack,

State Director.