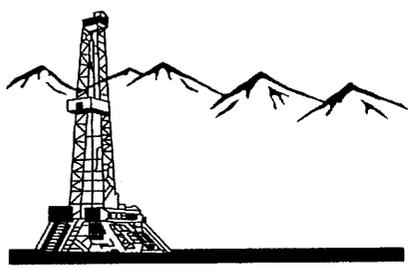


B070000



PUBLIC LANDS ADVOCACY

CLAIRE M. MOSELEY
EXECUTIVE DIRECTOR

WWW.PUBLICLANDSADVOCACY.ORG

1410 GRANT STREET, SUITE B-305, DENVER CO 80203 • PHONE (303) 860-0212 • FAX (303) 860-0310 •
EMAIL: CLAIRE@PUBLICLANDSADVOCACY.ORG

March 4, 2005

BLM Miles City Field Office
RMP Comments
P.O. Box 219
Miles City, Montana 59301-0219

RE: Scoping – Miles City Field Office RMP

Dear Sir:

On behalf of Public Lands Advocacy following are scoping comments on the land use planning process for the Miles City RMP. Specifically, our members appreciate the opportunity to have an integral role in the development of the new Resource Management Plan (RMP) due to the area's importance for oil and gas resources, both conventional and nonconventional.

General

In the past many assumptions made during the planning process have had little scientific basis. It is critical that BLM make its land use decisions using reliable scientific data rather than pseudo-science proffered by special interest groups. In addition, BLM's 1624 Manual Supplemental Program Guidance (SPG) requires that the least restrictive stipulation required to protect the resource be utilized. This approach can be successful only when rigorous scientific standards are maintained in conjunction with meticulous monitoring of the efficacy of restrictions and other land use decisions. This is especially important in wildlife habitat where BLM seems to take the most restrictive management strategy.

Planning Requirements for Fluid Minerals

PLA appreciates that Planning Criteria No. 8 ensures the plan will comply with the requirements of 1624 Handbook, Planning for Fluid Minerals into the Miles City RMP planning process.

Nevertheless, we urge that the following factors be fully addressed in the analysis:

- ◆ Management options that would protect or enhance opportunities to explore for and develop oil and gas resources will be examined.
- ◆ Management options for surface resource management that are compatible with oil and gas resource management objectives
- ◆ Reasonable mitigation measures designed to limit or avoid impacts to surface resources as a means to lessen restrictions on access to public lands for leasing
- ◆ Lack of oil and gas resource potential or current industry interest will not be used as a basis for closing lands or imposing constraints on exploration and development activities

The effects on oil and gas opportunities from surface management is only tied to – not limited to – economic impacts. Access to public lands for purposes of exploring for and producing oil and gas resources must be considered a separate issue from economic impacts. It must be explained how surface management constrains the availability of public lands for leasing, exploration and potential

development. Moreover, compliance with the various leasing laws that require all lands to be evaluated for lease is an access issue that has nothing to do with economics.

We recommend that an analysis of the following types of effects be included in the environmental consequences section of the RMP:

- ♦ Effects on opportunities to explore for lease and develop oil and gas resources resulting from restrictive surface management decisions, including lease stipulations and permit conditions of approval.
- ♦ The application and viability of reasonable mitigation.
- ♦ Limit the study to any residual effects that may be present after standard lease terms, special stipulations or conditions have been imposed. (For example, under the 43 CFR 3101 regulations, a two-month occupancy restriction can be imposed under standard terms and conditions of a lease for purposes of protecting critical habitat. Therefore, if the typical restriction used to protect calving areas is two months, no stipulation is needed because the BLM has the authority to restrict an operator, if necessary, to protect such areas under the standard terms of the lease. A lease notice apprising the lessee that calving grounds exist on the lease should be sufficient.)

Consideration of EPCA in the Planning Process

The President's National Energy Policy directs that "...agencies shall expedite their review of permits or take other actions necessary to accelerate the completion of [energy-related projects] while maintaining safety, public health and environmental protections. The agencies shall take such actions to the extent permitted by law and regulation and where appropriate." This requirement was further outlined in Instruction Memorandum 2003-233, Integration of the Energy Policy and Conservation Act (EPCA) Inventory Results into the Land Use Planning Process. This IM states, "The EPCA integration is a good opportunity to evaluate lease mitigation requirements to determine whether they are appropriate and effective. This evaluation will include a review of all current oil and gas lease stipulations in the State and Field Office stipulation books and databases. We need to make sure each of these documents clearly state the intent of the mitigation, and the mitigation is the least restrictive necessary to accomplish the desired protection."

We recommend therefore that BLM refrain from merely identifying volumetric data in the DEIS as was done in the Draft Environmental Impact Statement and RMP for the Price Field Office. While this information is relevant, the intent of integrating EPCA results into the planning process is to balance environmentally responsible energy development with sensitive resources. We strongly recommend that BLM eliminate unnecessary restrictions from the RMP/DEIS in accordance with the EPCA findings to ensure access and availability of the public land for energy resources is not unduly restricted.

Adaptive Management

Adaptive management could be a useful tool in the planning process. We support the use of performance-based parameters because it encourages innovation to deal with changing conditions and new technological advancements. Moreover, monitoring is critical to measuring the effectiveness of these parameters. However, performance-based/adaptive management techniques must be specific enough so that project proponents fully understand the expectations at the time a lease or permit is issued. We do not support performance based or adaptive management/monitoring that is unspecified and results in later-to-be-determined mitigation and compliance requirements. Such a practice would cause project proponents serious problems in scheduling and meeting compliance, as well as having to handle unanticipated costs that could negatively affect the economics of a given project. In other words, energy companies must have a

level of certainty in accordance with their lease rights and BLM must avoid deferring land use decisions under the guise of Adaptive Management.

Wilderness Values

Under IM 2003-275 - Change 1, Consideration of Wilderness Characteristics in Land Use Plans (Excluding Alaska), BLM cannot designate new WSAs through the land use planning process nor will BLM allocate any additional lands for management under the non-impairment standard prescribed in the [wilderness study area] Interim Management Policy (IMP). We recognize, however, that BLM may still consider wilderness characteristics when preparing land use plans. The IM goes on to specify that BLM is still authorized to protect wilderness characteristics through the planning process and can control multiple-use activities through a variety of actions, such imposing restrictive Visual Resource Management (VRM) class objectives and establishing conditions of use to be attached to permits, leases, and other authorizations to achieve the desired level of resource protection.

Even though we recognize BLM's authority to consider wilderness values during the planning process, we are opposed to any special land allocations that would limit or prohibit oil and gas leasing in areas previously identified as "Citizen's Wilderness Proposals."

Directional drilling

It has become increasingly apparent that many believe the oil and gas industry can use directional or horizontal drilling technology in any situation, particularly to reduce potential effects on surface resource values. Determinations of the feasibility of directional drilling or any other unconventional drilling technology can be made only by the operator. Additionally, the feasibility of directional/horizontal drilling technology is determined on a well-specific basis. Generally, this technology is used for field development rather than exploration activities. It should also be noted that exploratory drilling is already a difficult and expensive undertaking because it is an attempt to determine where a structure may occur without the added knowledge of data from previously drilled wells in the area. The technical limitations of directional/horizontal drilling do not make it a reliable tool for most exploration wells. Additionally, it is unpredictable and costly in areas with excessive gas production because well control becomes difficult and the odds of encountering serious well control problems are radically increased. Formations that require sharp, high angle deviations are also not good candidates for directional drilling. Deviated wells may be problematic even in the production stage due to the high angle turn in the pipe. The exponential increase in cost coupled with increased mechanical challenges could prevent many such projects from ever being drilled and thus related benefits in terms of revenue and product are not realized the by the state or the nation.

Interim development during planning

According to IM-2001-191: "*When a RMP is being amended or revised, BLM will continue to process site-specific permits, sundry notices, and related authorizations on existing leases in an expeditious manner while ensuring compliance with NEPA and other laws, regulations, and policies.*

The BLM has the authority and discretion to condition its approval of proposed actions (APDs and other site specific activities) with reasonable measures (including relocation, redesign or delays in the proposed action) so as to reduce the effect of actions on other resource values and uses, consistent with the lease rights granted (see 43 CFR 3101.1-2). That is, BLM can use its authority and discretion to condition its approval of proposed actions to not constrain alternatives under consideration in a RMP revision or amendment consistent with the lease rights granted. Actions that may appear to reduce a lessee's right to reasonably develop a lease should be cleared through the State Director and Regional Solicitor's Office." We urge BLM to follow the requirements in the Instruction Memorandum during the current planning process.

Socio-economic considerations and benefits from oil and gas activities

We recommend that a comprehensive analysis of the socio-economic benefits of oil and gas development activities in the area be included in the planning review. A chart representing costs of administering the mineral program and industry's financial contributions to local, state and federal treasuries would also be appropriate. The Buffalo Field Office's Powder River Basin EIS contains a useful analysis which could be used as a model for the Miles City RMP revision.

Management of areas with low, moderate, high and unknown potential for oil and gas

BLM is responsible for assessing the potential for occurrence of oil and gas resources during the analysis process. It is necessary to emphasize that the lack of potential or lack of current industry interest must not be considered a basis for closing lands or imposing severe constraints on future development. Levels of interest can change unexpectedly, rendering an area previously considered to have low potential highly prospective due to new information, technology or economics. It is important that future opportunities to explore for and develop oil and gas resources not be indiscriminately foreclosed.

Reasonably Foreseeable Development (RFD) Scenario

Instruction Memorandum (IM) 2004-089, "Policy for Reasonably Foreseeable Development (RFD) Scenario for Oil and Gas," (Jan. 23, 2004), specifies:

"The RFD projects a baseline scenario of activity assuming all potentially productive areas can be open under standards lease terms and conditions, except those areas designated as closed to leasing by law, regulation or executive order."[Emphasis added] According to BLM's oil and gas RFD policy, the baseline RFD is to be unconstrained by restrictions.

We recommend that BLM use a method that incorporates historical data on what types of impacts have typically occurred in the area. It will be impossible to determine exactly how many miles of roads will be needed or how big a specific well pad may be until an Application for Permit to Drill (APD) is filed. Therefore, the agency should use a local average for these types of uses as well as specific geologic information obtained from operators in the area. Furthermore, the discussion of cumulative impacts related to possible development should include not only possible impacts of oil and gas activities, but also the measures available to mitigate adverse effects. In addition, we support the direction in IM 2004-89 that BLM utilize a new approach for defining cumulative impacts that addresses acceptable levels of surface disturbance rather than the number of wells in then planning area. This gives both BLM and industry needed flexibility in future development opportunities, such as drilling multiple wells from a single pad or taking into consideration wells that have been plugged and abandoned. This concept, termed "net effects," includes acknowledging the difference between exploration and development wells, allows for acreage that is not developed to be essentially thrown "back into the pot" so that additional wells can be drilled without exceeding the levels of surface disturbance analyzed in the EIS, and gives industry and BLM alike more management flexibility.

Mitigation measures

Section 1502 of the Council on Environmental Quality Regulations on the National Environmental Policy Act (NEPA) required identification of mitigation measures in the EIS which may be employed to reduce or entirely avoid impacts to other resource values. We do not believe this direction means that only lease stipulations need be identified. Too often, draft RMPs do not address any type of mitigation until after it has described the worst case scenario. In fact, most often mitigation is only addressed in an appendix rather than being incorporated into the cumulative effects analysis. This does nothing more than fuel the flames of opposition to oil and gas activities. We specifically request that ALL mitigation measures be incorporated directly into the effects analysis to show that oil and gas

activities are mitigated and are actually compatible with other resource uses, including those in sensitive areas.

For example, in most planning documents, descriptions of impacts on wintering wildlife from oil and gas activities do not take into account the seasonal or timing limitations routinely imposed on operators through lease stipulations or COAs. As a result, the analysis discussion fails to accurately portray the actual effects. We recommend this practice be eliminated from the future environmental impact statement for the Miles City RMP revision.

Surface resource management decisions

Many previous BLM planning documents discussed the potential impacts oil and gas activities may have on other resource values. Unfortunately, they have failed to address or adequately describe the effects surface resource management decisions may have on future subsurface opportunities and activities. Therefore, we strongly urge BLM to fully explain the impacts of surface management decisions and trade-offs selected as they relate to limitations of oil and gas opportunities.

Valid existing rights

A word about Valid Existing Rights (VER)...as spelled out in the previously cited SPG, valid existing lease rights cannot be changed by a new plan. Voluntary compliance to the new plan may be sought from lessees if activities are initiated. We recognize BLM has stated in its Planning Criteria that VER will be honored. Nevertheless, VER are often severely impacted by imposition of highly restrictive Conditions of Approval (COA) on projects located on existing leases. BLM needs to detail in the planning documents if and how valid existing lease rights could be impacted by the new leasing decisions and any associated COAs that may result. Specifically, potential conditions of approval for operations and other changes should be identified.

Conclusion

We appreciate this opportunity to provide you with our views and concerns. Please do not hesitate to contact me should you have any questions regarding our comments.

Sincerely,

/s/ Claire Moseley

Claire M. Moseley

Cc: Gail Abercrombie, Montana Petroleum Association
Joe Icenogle, Fidelity EPCO

Date: March 4, 2005

From:

Steve Forrest, Senior Program Officer, Northern Great Plains Ecoregion Program, World Wildlife Fund – US, Bozeman, MT.

David Gaillard, Conservation Director, Predator Conservation Alliance, Bozeman, MT.

To:

Mary Bloom
BLM Miles City Field Office
RMP Comments
P.O. Box 219
Miles City, MT 59301-0219
mbloom@blm.gov

Dear Mary,

On behalf of World Wildlife Fund's 1.1 million members nationwide and Predator Conservation Alliance's 1200 members, thank you for the opportunity to comment on the issues to be considered in the upcoming Resource Management Plan for the public lands under the jurisdiction of the Miles City Field Office of the Bureau of Land Management.

Fish

The lower Yellowstone (from the mouth of the Powder River) and lower Missouri Rivers (from Ft. Peck Reservoir) contain more populations of imperiled aquatic fish species (listed by one or more federal or state agencies within the Northern Great Plains (NGP)) than anywhere else in the entire NGP Ecoregion. Species, including pallid sturgeon, sturgeon chub, sicklefin chub, shovelnose sturgeon, pearl dace, finescale dace, finescale x redbelly dace, and western silvery minnow, are imperiled by a number of factors. To the extent possible, BLM should analyze and mitigate for the impacts of upstream development (coal bed methane, mining, and oil and gas development) on biologically rich downstream reaches, as well as direct habitat maintenance and/or improvements.

Off-Highway Vehicles

Unregulated off highway vehicle use continues as a serious threat to biodiversity and a strategy should be addressed to end this practice.

Wildlife

World Wildlife Fund (WWF) has identified the Northern Great Plains Ecoregion as one of its "Global 200" ecoregions, the most biologically significant landscapes in the world. In 2004, along with partner organizations in the Northern Plains Conservation Network, WWF produced an ecoregional assessment for the NGP titled: Ocean of Grass: A Conservation Assessment for the Northern Great Plains:
http://www.worldwildlife.org/wildplaces/ngp/pubs/ocean_of_grass.cfm

This assessment found that large areas of the Miles City District contain high biodiversity ranking, largely as a result of: high numbers of grassland endemic species, intact grasslands and, in places, limited road development.

If the BLM is to maintain the biotic integrity of its lands within the planning area it will need to address the following issues in this RMP:

Declining Grassland birds. BLM should identify key parameters and strategies to improve habitat for declining endemic grassland birds, including identification of critical breeding habitat, on BLM lands within the planning area.

Monitoring. BLM — in conjunction with Montana Fish Wildlife and Parks, the U.S. Fish and Wildlife Service, and other interested publics — should develop assessment and monitoring programs for all endemic and imperiled species on BLM lands within the planning area, and, where needed, establish goals and a timetable for restoring species such as swift fox and black-footed ferrets, which may be absent from BLM lands within the planning area at present.

Prairie dogs and associates. The Montana Prairie Dog Conservation Plan envisions at least 2 “Category 1” prairie dog complexes (suitable for establishment of a viable population of black-footed ferrets) in the state. The distribution of prairie dogs in Montana makes it imperative that one of these complexes is sited within the planning area of the Miles City District (see, e.g., Proctor et al., in press). This planning process should result in designation of the Custer Creek or other appropriate area for black-footed ferret recovery. Mountain plovers, burrowing owls, ferruginous hawks and many other raptors would also benefit from more comprehensive planning for prairie dog abundance and distribution.

Special Management Designations

BLM should identify Important Bird Areas and ACECs to protect nationally and locally recognized areas of biological significance, including establishing ACECs around Category 1 prairie dog complexes.

Water

Preservation of water quantity and quality are vital to the long term health of lands in the planning area. Of particular concern are potential degradation of surface waters from coal bed methane development and other potential mining activities, dewatering of ground water aquifers, and erosion caused by unregulated OHV use. BLM should ensure through its planning process that water quality is maintained by its proposed plan.

Vegetation

Invasive species. BLM should continue its invasive species program.

Lands and Realty

Consolidation. Land consolidation would benefit a number of species where uniform management over large areas is required. Fragmented ownership is an impediment to

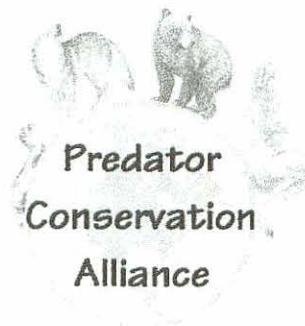
minimizing conflicts, for example, in areas where prairie dog complexes are to be established for black-footed ferret recovery.

Roads. BLM needs to evaluate its road system to determine whether the existing road network is impacting maintenance of wildlife habitat, particularly fragmentation of sage grouse habitat, fragmentation of other grassland bird habitat, big game disturbance, and introduction of noxious weeds.

Sincerely yours,

Steve Forrest
Senior Program Officer
Northern Great Plains Ecoregion
Program, WWF-US
104 E. Main, Suite 215
Bozeman, MT 59715
Phone: 406.582.7571
Fax: 406.585.7910
scforrest@earthlink.net
www.worldwildlife.org

David Gaillard
Conservation Director
Predator Conservation Alliance
P.O. Box 6733
Bozeman, MT 59771
Phone: 406.587.3389 x.103
Fax: 406.587.3178
gaillard@predatorconservation.org
www.predatorconservation.org





Miles City RMP Comments
PO Box 219
Miles City, MT 59301-0219

Dear Madam or Sir:

Thank you for the opportunity to comment on the upcoming RMP plan. I believe public input is an important element of the planning process. Please withhold my address from public view.

OFF-HIGHWAY VEHICLES

Unregulated off highway vehicle use has been identified as one of the four major threats to public land today. Irresponsible use of OHVs and the inability of agencies to enforce current regulations (often due to inadequate funding) is probably the most important issue the RMP must address. The RMP should manage OHV use throughout the planning area to best protect natural resource and cultural values of the RMP area.

Irresponsible use must be reduced or eliminated through well thought-out plans, public education and signage, high penalties for abuse, and the consideration of OHV licenses/fees to cover the cost of enforcement and/or restoration of areas damaged by irresponsible OHV use. If irresponsible use continues in an area, the RMP should authorize closing it to motorized use.

WILDERNESS

Close ALL Wilderness Study Areas in the RMP area to motorized use. By law WSAs must be managed for non-impairment of wilderness values AND enhancement of these values.

Increasing motorized use, the widening of road and trails, the creation of new unauthorized tracks, the spread of weeds, noise, pollution and reduction of solitude add up to a major reduction of wilderness values.

The RMP should re-evaluate the Wilderness potential of all the WSAs in the RMP region that were not recommended for Wilderness designation under the current Big Dry and Powder River RMPs. The Buffalo Creek and Zook Creek WSAs represent an ecotype (Great Plains Shortgrass Prairie Province/Eastern Ponderosa Forest) that is not represented in the National Wilderness Preservation System, and therefore would be a valuable addition.

Additional areas outside the WSAs should be evaluated for Wilderness potential, especially areas of intact prairie ecosystems.

SPECIAL MANAGEMENT DESIGNATIONS

The plan should include management actions to control damaging OHV use in special management areas, especially the 16 ACECs in the RMP area.

RECREATION

Additional areas outside of WSAs should be identified for non-motorized recreation opportunities. Although motorized use has increased, the vast majority of users seek quiet and primitive conditions to hunt, fish, hike, wildlife viewing, etc. Motorized use tends to displace other users and wildlife. There must be ample opportunity to recreate away from motors without conflict as required under the regulations implementing Executive Orders 11644 and 11989.

Has the BLM considered Hiking and Riding Areas? This is a designation used by the Forest Service for land near the Tongue River.

VEGETATION

Assess the role of grazing and OHV use in the spread of noxious weeds. The RMP should be proactive in halting the spread of noxious weeds. When restoring areas, including riparian areas, the plan should specify the use of native plant species, not nonnative monocultures such as crested wheatgrass, to encourage a return of more natural and native ecosystems.

WILDLIFE

The preservation and enhancement of secure habitat is essential to viable wildlife populations and should be a fundamental element of the plan. Roads or two-tracks should be considered for closure and rehabilitation where they affect habitat security. The RMP should address management of prairie dog colonies, a key species to the natural prairie ecosystem, which affects a great number of birds and other species native to the northern plains.

WATER

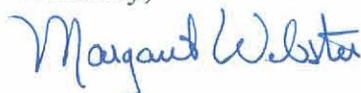
The preservation of water quality is vital to the long-term health of RMP area. The RMP should address the threats of potential coal bed methane development and other resource extraction activities, and unregulated OHV use.

LAND & REALTY

Much of the public land in the RMP area is scattered and interspersed with private lands. The RMP should address the consolidation of the public land, and consider the acquisition of private inholdings within WSAs from willing sellers as one of the criteria for land acquisitions.

Although the RMP cannot address the issue of funding, in order for a successful implementation and enforcement of the plan, the BLM must be adequately funded by Congress.

Sincerely,



Margaret Webster

Margaret Webster