

Comments of the Supplement to the Draft RMP/EIS by Commenter Type

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FIML Natural Resources, LLC	138	1	MIN	<p>The Tribe's ownership in NOSR2 is unique in that it is owned directly by the Tribe and not by the Department of the Interior in a fiduciary capacity. In 2001, approximately 83,000 acres known as the Naval Oil Shale Reserve No. 2 were deeded to the South, Ranges 18 and 19 East in Uintah County, Utah. Subsequent legislation determined that the Department of Interior approval is not required for any exploration, development or other agreement relating to NOSR2. Leases are issued directly by the Tribe and not by the Bureau of Indian Affairs. The permits to drill in NOSR2 are approved by the Tribe and not the Bureau of Land Management. The proposed decisions in the Vernal Resource Management Plan, and the Supplement thereto, are to apply only to lands and mineral estates managed by the Bureau of Land Management. Neither the Bureau of Land Management nor the Bureau of Indian Affairs is involved in either the surface or the mineral estates of NOSR2. Accordingly, these lands should not be included in either the Vernal Resource Management Plan or the Supplement.</p> <p>In Brundage, FIML and the Tribe have an oil and gas leasehold interest in lands designated Proposed Areas of Critical Concern in the Supplement in which the surface is owned by the State of Utah, Department of Wildlife Resources ("DWR"). The Tribe owns the mineral estate. Those lands are:</p> <p>Township 5 South, Range 5 West Section 18: N/2</p> <p>FIML has begun the permitting for two wells on these DWR-surface lands in Section 18, Township 5 South,</p>	<p>Decisions and actions of the RMP only fully apply to BLM managed lands. In cases of split estate lands or upon lands not managed by the BLM, actions affecting the surface or minerals must be coordinated with the surface owner or mineral estate owner. Undertakings conducted on lands not wholly or partly administered by the BLM are subject to the laws, regulations, conditions, and policies of the relevant land management agency or other landowner.</p> <p>Information regarding leasing and development on split estate lands is found at the following Washington Office website: www.blm.gov/bmp/Split_Estate.htm.</p> <p>Instruction Memorandum No. 2003-202 outlines the policy, procedures and conditions for approving oil and gas operations on split-estate lands. In particular, the BLM will not consider and Application for Permit to Drill or a Sundry Notice administratively or technically complete until the Federal lessee or its operator certifies that an agreement with the surface owner exists, or until the lessee or its operator complies with Onshore Oil and Gas Order No. 1. Compliance with Onshore Oil and Gas Order No. 1 requires the Federal mineral lessee or its operator to enter into good-faith negotiations with the private surface owner to reach an agreement for the protection of surface resources and reclamation of the disturbed areas, or payment in lieu thereof, to compensate the surface owner for loss of crops and damages to tangible improvements, if any. In addition, the BLM will invite the surface owner to</p>	

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			<p>Range 5 West: the State Tribal 1-18-55 and the State Tribal 3-18-55. In addition, FIML has submitted Applications to the DWR for requisite Rights-of-Ways for drill sites, roads, and gas gathering lines for these wells. Currently, FIML is operating two other wells in this Section which are on DWR surface, the State Tribal 5-18-55 and the State Tribal 7-18-55.</p> <p>Also, in Brundage, FIML and the Tribe have a contractual right to oil and gas leases in lands that are designated Proposed Areas of Critical Concern in which the surface is owned by the DWR. The Tribe owns the mineral estate. The leases should be issued by the Bureau of Indian Affairs at any time. Those lands are:</p> <p>Township 5 South, Range 4 West Section 6: S/2 Section 7: N/2</p> <p>Township 5 South, Range 5 West Section 1: S/2 Section 2: S/2 Section 3: all Section 10: N/2 Section 11: N/2 Section 12: N/2</p> <p>FIML anticipates additional drilling on lands with DWR surface for which it has an oil and gas leasehold interest.</p> <p>Finally, there are lands designated Proposed Areas of Critical Concern in which the surface is owned by the DWR, which are subject of a pending DWR Application for a Pipeline Right-of-Way. Those lands are:</p>	<p>participate in the onsite inspection and will take into consideration the needs of the surface owner when reviewing the Application for Permit to Drill. The BLM will offer the surface owner the same level of surface protection BLM provides on Federal surface (Instruction Memorandum No. 89-201).</p> <p>The BLM has not proposed any Areas of Critical Concern upon lands within the Uintah Special Meridian.</p>	

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				<p>Township 5 South, Range 4 West Section 6: S/2 Section 7: N/2, SW/4</p> <p>Township 5 South, Range 5 West Section 10: S/2 Section 11: S/2 Section 12: all</p> <p>In the last two years, we have successfully worked with the DWR. As indicated above, FIML has drilled and now operates two wells on DWR surface. In addition, FIML has constructed a road over DWR lands. These projects were completed and are being operated while accommodating the interests of the DWR. It is our position that FIML and the Tribe should be able to continue to develop their respective mineral leasehold interests under the DWR surface and to negotiate rights-of-way with the DWR as in the past and that these lands should be excluded from designation as Proposed Areas of Critical Concern.</p>		
Questar	140	1	PRP	<p>Questar has become increasingly concerned recently with attempts made via the NEPA process to impose new restrictions on existing legal rights, e.g., leases, rights-of-way, previous Records of Decision, etc. Questar regards this as a serious legal issue. LEPMA states that "[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights." 43 U.S.C. 1701 note (h), 43 C.E.R. 1610.5-3(b). Questar has a vested interest in the decisions made by the BLM for the planning area that affect existing and future leasing, and exploration and development activities. The BLM needs to recognize the importance of allowing reasonable access to oil and gas reserves.</p>	<p>A planning criteria adopted in the Proposed RMP/Final EIS states: "All decisions made in the RMP and subsequent implementation decisions will be subject to valid existing rights."</p>	

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				Recommendation: Ensure that VFO continues to recognize valid existing rights and provide reasonable access.		
Questar	140	2	PRP	<p>Restrictions on Development</p> <p>The Supplement to the DRMP/EIS contains many restrictions on oil and gas development. Questar finds the restrictions in Alternative E to be excessive and in conflict with the Energy Policy Conservation Act of 2000 and Executive Order 13211 which require identification of and efforts to eliminate impediments to natural gas and oil development. Alternative E will result in the following:</p> <ul style="list-style-type: none"> -22% of the total federal acres (1,697,039 acres) would be closed to leasing -43% of the total federal acres would be available for leasing but with CSU or NSO restrictions -A 598% increase in the number of acres withdrawn from leasing over the No Action Alternative (Alternative D) -A 591% increase in the number of acres managed as Visual Resource Management (VRM) Class I over the No Action Alternative. -Even if the existing Wilderness Study Areas are released from wilderness consideration and management by Congress, under Alternative E, these areas would still be managed with the same restrictions applied to non-WSA lands with wilderness characteristics. -45% of the non-WSA lands with wilderness characteristics are already leased for oil and gas development. These areas would be ROW exclusion areas: however, the SDRMP/DEIS explains that ROWs might be granted through these areas to reach valid existing leases (pg 4-30), but also indicates these lands would be "closed to new road construction." (Pg. 4-111). 	<p>Valid existing rights are considered Administrative Actions by the BLM and do not require a specific planning decision to implement. As noted in Chapter 1 under Planning Criteria and as outlined in the BLM's Land Use Planning Manual (Section 1601.06G), all decisions made in land use plans and subsequent implementation decision are subject to valid existing rights. The BLM will work with and subject to the agreement of holders of valid existing rights to modify proposed actions or activities to reduce the effect of the actions or activities on resource values and uses. These modifications may be necessary to maintain the choice of alternatives being considered during land use plan development and implementation, and may include appropriate stipulations, relocations, redesigns, or delay of proposed actions. The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public.</p> <p>An Interdisciplinary team of resource specialist, with on-the-ground knowledge of the planning area, analyzed the current management situation, desired conditions, the uses and activities to create a</p>	

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			<p>Alternative E results in serve and unacceptable adverse impacts on the ability of the oil and gas industry to develop the mineral resource within the VFO planning area and is not consistent with BLM's directive to manage public lands for multiple use. There is insufficient explanation of the rationale for the stringent stipulations within non-WSA lands with wilderness characteristics resulting in the loss of additional acreage available for oil and gas development and compliance with governing energy policies.</p> <p>The SDRMP/DEIS rather disingenuously boasts that Alternative E will result in an increase in commercially available supply of oil and natural gas, an increase in the number of wells drilled, and a beneficial long-term effect on state and local revenue over the No Action Alternative (pgs 4-37, 4-66). These benefits appear to be due to the fact that under Alternative E, 188,500 acres in the Hill Creek Extension will be available for leasing which were not envisioned under the 1985 RMP. We assume the Hill Creek Extension would also be available for leasing under Alternative B,C, and D. BLM's failure to mention this additional charge when comparing Alternative E with the No Action Alternative is not in the spirit of full public disclosure.</p> <p>Also included in Alternative E is a proposal to re-establish the Bonanza Wild Horse Herd Management Area. Under Alternative A and B, this Wild Horse Management Area would be officially removed. This area has been mostly unpopulated and re-establishing the horse management area would further limit oil and gas development. (2-19 and 4-125)</p>	<p>framework to resolve the issues raised through the development of the alternatives. A balanced approach consistent with FLPMA's principles of "multiple use" was a key component of the analysis.</p> <p>The FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c)).) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including energy and mineral development, as well as conserving and protecting other resource values for current and future generations.</p> <p>The DRMP/DEIS contains alternatives which strike an appropriate balance between environmental protection and development of the mineral resources on our public lands consistent with the requirements of the Mining and Mineral law and FLPMA. The PRMP/FEIS will offer BLM management the flexibility to protect resource values and uses while allowing for acceptable levels of mineral development.</p>	

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				<p>Recommendation: BLM must ensure that its decisions comply with the Energy Policy Act (EPA 2005), the Energy Policy and Conservation Act (EPCA 2000), the National Energy Policy (NEP), and Executive Order 13212, (66 Fed. Reg. 28357 May 18, 2001) and reduce rather than increase impediments to federal oil and gas leasing. Under FLMPA, BLM is required to manage public lands under the principles of multiple use and sustained yield 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.F.R. 1610.5-3. FLMPA identifies "mineral exploration and production" as one of the "principle or major uses" of public lands. See 43 U.S.C. 1702(1). The removal of expansive acreage from leasing and development in the VFO does not comply with BLM objectives and FLMPA directives.</p>		
Questar	140	3	SCO	<p>Areas of Critical Environmental Concern Alternative E includes 12 Areas of Critical Environmental Concern (ACEC) on 679,935 acres of federal mineral estate. Seven of these ACECs are located in non-WSA lands with wilderness characteristics and are proposed to be managed as VRM Class 1, closed to oil and gas leasing, ROW exclusion areas and closed to road construction. An ACEC designation is only appropriate when the designation is needed to "protect a resource or value." See BLM Manual 1613 - Areas of Critical Environmental Concern, pg. 51. In order to be a potential ACEC, both of the following criteria shall be met: 43 CER 1610.7-2.</p> <ul style="list-style-type: none"> -Relevance, e.g., a significant historic, cultural, or scenic value; and -Importance, i.e., shall have substantial significance and values. 	<p>Under the provisions of FLPMA, the BLM has authority to designate ACECs where special management attention is required to protect and prevent irreparable damage to important cultural, historic, scenic values, fish and wildlife resources, other natural systems or processes, or to protect life and safety from natural hazards. To be considered as a potential ACEC, an area must meet the criteria or relevance and importance, which does not include wilderness characteristics. Where ACEC values and wilderness characteristics coincide, the special management actions associated with an ACEC, if designated, may also protect "wilderness characteristics" (Washington Office Instruction Memorandum 2003-275). However, BLM policy directs that "an ACEC designation will not be used as a substitute for wilderness suitability recommendations" (BLM Manual 1613).</p>	

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			<p>It is unclear what information the BLM used to determine that the proposed ACECs met the "importance and relevance" criteria. NEPA and BLM policy require that the BLM make available for public comment the information upon which the decision to designate an ACEC was reached, including the underlying analysis for the proposed and existing ACECs. <i>Isle Royale</i>, 154 F.3d 1127, 1127; <i>Trout Unlimited</i>, 509 F.2d 1284; BLM ACEC Manual 1613.096-4. Further, the BLM has not demonstrated that existing management practices and designations do not adequately protect the resource values of concern and that an ACEC is necessary. BLM provides no justification that the fragile, sensitive, rare, irreplaceable, exemplary, unique, endangered, or threatened criteria have been met. The information and data used by the BLM to make these determinations should be fully disclosed to the public as required by NEPA and BLM policy. ACEC designations cannot be used to create defacto wilderness areas. The BLM Manual on ACECs expressly instructs that "An ACEC designation shall not be used as a substitute for a wilderness suitability recommendation." BLM Manual 1613.</p> <p>The DRMP/EIS should note that many of the resource values that are meant to be protected by the proposed ACECs are already protected through management prescriptions that are applied to leases and/or APDs. ACEC designation is unnecessary when other designations are adequate to protect a resource or value. FLPMA states that the least restrictive management technique to protect a resource should be applied. Thus, if the resource proposed for protection in an ACEC is already protected by current management practices or existing designations, FLPMA requires that</p>	<p>Appendix G describes each ACEC within the Vernal Planning Area and whether or not they meet the relevance and importance criteria. This information has been available for public comment during the Scoping Process as described in Section 1.6 of the PRMP/FEIS.</p>	

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			<p>no additional restrictions be imposed.</p> <p>Recommendation: Disclose the information upon which the proposed ACECs were determined to meet the "importance and relevance" criteria. Eliminate the proposed ACECs from further consideration if they fail to demonstrate that additional protections are necessary and/or that they meet the importance and relevance criteria.</p>			
Questar	140	4	WSA	<p>Non-Impairment Standard Does not Apply to non-WSA lands with wilderness Characteristics</p> <p>Non-WSA lands with wilderness characteristics are not subject to the WSA non-impairment standard. The IBLA has routinely rejected such arguments. See, e.g., Wyoming Outdoor Council, 147 IBLA 105.112(1998), holding that "BLM properly concluded that the non-WSA lands...are not subject to the [FLPMA] Section 630 standard."</p> <p>Recommendation: BLM must maintain the current policy of not imposing non-impairment standards upon non-WSA lands with wilderness characteristics.</p>	<p>The management and level of protection of the wilderness characteristics on Non-WSA lands is discretionary and not bound by requirements of the Wilderness Act of 1964 or the WSA Interim Management Policy (IMP, H-8550-1; BLM 1995). However, the BLM may manage the lands to protect and/or preserve some or all of those characteristics through the land use planning process. In addition, under the land use planning process, the BLM must consider a range of alternatives for the lands identified with wilderness characteristics. This gives the public the ability to fully compare the consequences of protecting or not protecting the wilderness characteristics on these Non-WSA lands.</p>	
Questar	140	5	SOC	<p>Socioeconomics</p> <p>The socioeconomic analysis does not give adequate weight to the importance of energy supplies in all levels of the economy. The full positive impact of mineral development in the planning area was not considered, nor was the negative impact that will result from imposing Alternative E's stringent restrictions on energy development. The actions proposed under Alternative E will result in significantly less benefit to the local communities in terms of employment, wages, and the economy, as well as to the state and the nation in terms</p>	<p>The Proposed RMP/Final EIS incorporates more recent data provided by the November, 2007, University of Utah study of the economic impacts of oil and gas development in the Uintah Basin. This data suggests that the job loss under Alternative E, although still present, will be substantially less than the Utah Energy Office study would suggest. That study examined the impact of drilling a single well, and did not incorporate the economies of scale available in large-scale minerals development. A detailed discussion of these two data sources, and</p>	

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			<p>of available energy. As stated on page 4-66 of the SDRMP/DEIS, the Utah Energy Office estimates that the drilling and completion of each well creates 14.8 jobs. Using estimated wells to be drilled under Alternative E compared to the No Action Alternative, this represents a loss of more than 3,160 jobs. Loss of these jobs will impact local, state, and national tax revenues.</p> <p>The closure of 22% of federal lands to mineral leasing and encumbering 43% of federal lands with NSO and CSU surface use restrictions will clearly have a negative impact on local employment and wages and tax revenues. Alternative E restrictions on natural resource development have the greatest potential to restrict economic opportunities for those whose livelihood depends completely, or in part, on the restricted activities. BLM fails to disclose how the restrictions may combine to increase the consumer cost of gas which will be disproportionately born by low-income populations. (Executive Order 12898, Federal Actions to Address Environmental Justice in Minority and Low-Income Populations, 59 Fed. Reg. 7629 (1994)).</p> <p>Questar believes it is important that the SDRMP/SEIS provide an accurate RFD analysis and fully consider the economic benefits of oil and gas activities under each Alternative.</p> <p>Recommendation: The BLM has failed to comply with the guidelines contained in the BLM's Land Use Planning Handbook (H-1601-H) and Instruction Memorandum No. 2002-167 concerning socioeconomic analysis. The analysis should more accurately depict the negative socio-economic impacts of the myriad of additional restrictions that Alternative E would apply to</p>	<p>their impact on the socioeconomic analysis of Chapter 4, has been added to Chapter 4 in the Proposed RMP/Final EIS. Additionally, a discussion of the expected fiscal impacts to state and local government from restricting oil and gas development in lands being managed to preserve, protect and maintain wilderness characteristics has been added to Chapter 4.</p> <p>The impact of BLM decisions on the national price of gas and its impact on low-income populations are beyond the scope of the Proposed RMP/Final EIS.</p>	

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				energy development, as well as the positive economic impacts associated with tax revenues, increased employment opportunities, and increased national energy supply from the potential energy development within the VFO.		
Fulbright & Jaworski L.L.P.	143	1	WC	<p>Desolation Canyon WCA. Large portions of the Desolation Canyon WCA overlap valid existing federal and state oil and gas leases, as well as other valid existing rights such as grazing allotments. Gasco urges BLM not to impose any restrictions upon minerals activity that fall within these areas. These lands already contain extensive human imprints such as roads, wells, pipelines and associated infrastructure and do not provide opportunities for enjoyment of naturalness, solitude, or primitive and unconfined recreation.</p> <p>Gasco provides the following comments on specific areas within or near the Desolation Canyon WCA: the Wilkin Ridge project area, which encompasses the portion of this WCA west of the Green River and north of Nine Mile Canyon. This area contains recently documented human imprints and development, as well as extensive valid existing rights.</p> <p>Wilkin Ridge Project Area. Gasco's Wilkin Ridge Exploratory project area consists of approximately 15,360 areas located in T10S-R17E and T11S-R17E in Duchesne County, Utah and contains extensive existing development and related infrastructure. This general area includes portions of the Desolation Canyon WCA west of the Green River and North of Nine Mile Canyon. Since SUWA's 2001 submission and BLM's subsequent westward extension of the wilderness characteristics area, there has been continues development activity occurring within this wilderness characteristics area. Map and Photograph Documentation of Existing</p>	Valid existing rights are considered Administrative Actions by the BLM and do not require a specific planning decision to implement. As noted in Chapter 1 under Planning Criteria and as outlined in the BLM's Land Use Planning Manual (Section 1601.06G), all decisions made in land use plans and subsequent implementation decision are subject to valid existing rights. Where the terms and conditions of valid existing rights are in conflict with existing planning decisions, the BLM will work with the holders of valid existing rights to modify proposed actions or activities to reduce the effect of the actions or activities on resource values and uses.	

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			<p>Imprints. Enclosed under Tab A is a map and photograph documentation detailing the extensive human imprints within and surrounding the Wilkin Ridge Exploratory Project area. The red cross-hatched area depicts the Desolation Canyon WCA. The map depicts a series of 27 locations with corresponding pictures detailing various human imprints constructed since 2001, including extensive mechanically maintained roads, pipelines, two-tracks, and well pads within and surrounding the portion of the Wilkin Ridge Exploratory Project area that SUWA claims has wilderness characteristics.</p> <p>For example, the corresponding pictures for map locations 19 through 21 detail an extensive mechanically maintained access road that traverses through the "wilderness characteristics" area. The pictures for map locations 10, 11, 22-24, and 27 denote extensively used two-track imprints that are undeniably human imprints that would render this area ineligible for wilderness designation under the Wilderness Act. Moreover, these human imprints underscore that additional protection or preservation through any of the management prescriptions detailed in Alternative E are not warranted. The pictures for map locations 5, 6 and 8 show an above ground pipeline, and locations 14, 15, 26 and 27 show range improvements and livestock grazing infrastructure. In addition to showing extensive imprints within the Project Area, this map shows that the immediate surrounding area contain several roads that traverse through the lands SUWA claims to have wilderness characteristics. Gasco plans to submit updated pictures and development information to BLM as soon as weather conditions make it practicable.</p> <p>Existing Development. As of December 1, 2007, the Wilkin Ridge area includes two producing wells and their</p>		

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			<p>associated access roads and facilities within the wilderness characteristics area (Wilkin Ridge Federal well numbers 12-4-11-17 and 14-4-11-17), as well as four producing wells on state lands that are within or adjacent to the wilderness characteristics area on federal lands (Wilkin Ridge State well numbers 12-32-10-17, 24-32-10-17, 31-32-10-17, and 44-32-10-17).</p> <p>Natural gas exploration and development activities have occurred on existing State of Utah leases in Sections 16 and 36 in T10S-R17E, and Section 2 in T11S-R17E. The Section 36 and Section 2 wells both fall in the middle of this general "wilderness characteristics" area. Natural gas development, including drilling rigs, trailers, tanks, and access roads are present in these areas. At least one of these access road traverses through federal lands across this "wilderness characteristics" area. These human imprints, combined with the extensive overlapping valid existing rights within this area, underscore that this area does not contain wilderness characteristics in sufficient form to warrant protection through imposition of restrictive management proscriptions.</p> <p>In sum, given the existing infrastructure, valid existing leases and other permitted uses that fall within the Wilkin Ridge area of the Desolation Canyon WCA, Gasco urges BLM not to impose any management prescriptions to protect or preserve wilderness characteristic values in this area.</p> <p>2. Gasco's Valid Existing Leas Rights The Desolation Canyon WCA overlaps valid existing federal and state oil and gas leases. The Wilkin Ridge Project Area encompasses portions of 5 valid existing federal oil and gas leases held by Gasco that contain portions of lands with purported wilderness characteristics. The pertinent details of these leases are</p>		

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			<p>as follows: (See table)</p> <p>Under these leases, Gasco has a contractual right, and obligation, to explore, develop and produce commercial quantities of hydrocarbons. Under FLPMA, the valid existing rights and obligations conferred to Gasco from the Department of the interior under these federal leases are not pre-empted, or otherwise excused, by BLM's consideration of potential future WCA and/or ACEC designation for portions of these leased areas.</p> <p>The IBLA has repeatedly upheld BLM's authority of manage lands that contain wilderness characteristics for other purposes, including the approval of drilling for oil and gas. See, e.g., SUWA, 158 IBLA 212, 214-215 (203); SUWA, 123 IBLA 12, 18 (1992). Indeed, IBLA has expressly stated that lands with wilderness characteristics "are not subject to the restrictions on surface-disturbing activities afforded WSA's by the non-impairment mandate of section 603(c) of FLMPA and do not affect the management or use of the public lands involved." SUWA, 163 IBLA 142, 148 (2004) (upholding BLM decision to authorize surface facilities for a coal mine located in lands with wilderness characteristics). Furthermore, the Board has confirmed that the "inventory of public lands under the authority of section 201(a) of FLPMA, 43 U.S.C. Section 1711(a) (2000), shall not affect the management or sue of the public lands." Id. (citing State of Utah v. Babbitt, 137 F. 3d 1193, 1208-09 (10th Cir. 1998)).</p> <p>Valid existing rights override subsequent land use proposals such as wilderness characteristics designations. Indeed, federal courts and the IBLA has consistently held that operators may develop their leases within WSAs if BLM issued their leases prior to the enactment of FLPMA. See, e.g., Colorado Environmental Coalition v. Bureau of Land Management,</p>		

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			<p>932. F. Supp. 1247, 1251 (D. Colo. 1996) ("those who held existing leases when FLPMA was enacted are exempt from the standard in Section 603© that requires management of such leases in such a way as not to impair suitability for preservation as wilderness. " (citing CEC, 135 IBLA 359)); Colorado Environmental Coalition, 135 IBLA 356, 359-360 (1996); SUWA, 100 IBLA 63 (1987); Utah Wilderness Coalition, 91 IBLA 124, 125, 130 (1986).</p> <p>In sum, Alternative E is not a viable alternative for BLM to adopt in the Final Decision Record given the extensive valid existing rights that exist in almost all WCAs for active mining claims, grazing allotments, county road designations, and federal and state oil and gas leases. This non-viability is particularly true for the portions of the Desolation Canyon WCA discussed above. Accordingly, in BLM's Final Decision Record it should make a finding that these particular areas are no longer WCAs.</p>			
EOG Resources, Inc.	144	1	WC	<p>Many of the WCAs in the Vernal Resource Area overlap with proposed ACECs (i.e. Desolation Canyon WCA). In reviewing the WCAs, it is important for BLM to concurrently examine proposed ACECs. Many of the proposed ACECs are overbroad, and appear based solely on the presence of wilderness characteristics. BLM has not identified other substantially significant resources and values within these ACECs that meet the relevance and importance criteria detailed in 43 C.F.R. 1610.7-2(a) (explaining that under importance criteria, "substantial significance and values...requires more than local significance and special worth., consequence, distinctiveness, or cause for concern."). Rather, the resources identified are common throughout Utah and the Intermountain West.</p>	<p>"Layering" is planning tool. Under FLPMA's multiple-use mandate, the BLM manages many different resource values and uses on public lands. Through land use planning BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple-use concept, the BLM does not necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. The process of applying many individual program goals, objectives, and actions to the same area of public lands may be perceived as "layering". The BLM strives to ensure that the goals and objectives of each program (representing resource values and uses) are consistent and compatible for a particular land area.</p>	

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			<p>The BLM Manual on ACECs expressly instructs that: "An ACEC designation shall not be used as a substitute for a wilderness suitability recommendation." BLM Manual 1613 (emphasis added). BLM's ACEC Manual goes on to explain that:</p> <p style="padding-left: 40px;">If an ACEC is proposed within or adjacent to a WSA, the RMP or plan amendment shall provide a clear description of the relationship of the ACEC to the recommendations being made for the WSA. The relationship shall be described to the level of detail required to avoid misunderstanding or misrepresentation by the public.</p> <p>BLM Manual 1613.</p> <p>The BLM IM regarding consideration of wilderness characteristics in land use plans explains, however, that if ACEC values and wilderness characteristics coincide, then special management prescription associated with an ACEC, if designated, may also protect wilderness characteristics. See BLM IM No. 2003-275, Change 1.</p> <p>As reflected by FLPMA, and expressly stated in FLPMA's implementing regulations, and BLM's IM: "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, Change 1 (emphasis added); see also 43 C.F.R. 1610.7(a)(2) (explaining that under importance criteria, "substantial significance and values...requires more than local significance and special worth, consequence, distinctiveness, or cause for concern.").</p>	<p>Inconsistent goals and objectives can lead to resource conflicts, failure to achieve the desired outcomes of a land use plan, and litigation. Whether or not a particular form of management is restrictive depends upon a personal interest or desire to see that public lands are managed in a particular manner. Not all uses and values can be provided for on every acre. That is why land use plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that all resource values and uses are considered to determine what mix of values and uses is responsive to the issues identified for resolution in the land use plan. Layering of program decisions is not optional for BLM, but is required by the FLPMA and National BLM planning and program specific regulations. The FLPMA directs BLM to manage public lands for multiple use and sustained yield (Section 102(a) (7)). As a multiple-use agency, the BLM is required to implement laws, regulations and policies for many different and often competing land uses and to resolve conflicts and prescribe land uses through its land use plans. The BLM's Land Use Planning desired outcomes of a land use plan, and litigation. Whether or not a particular form of management is restrictive depends upon a personal interest or desire to see that public lands are managed in a particular manner. Not all uses and values can be provided for on every acre. That is why land use plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that all resource values and uses are considered to determine what mix of values and uses is responsive to the issues identified for resolution in the land use plan. Layering of program decisions is not optional</p>	

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				<p>In sum, wilderness characteristics standing alone do not provide BLM with basis to designate an ACEC. To qualify for ACEC designation, the area must also contain other nationally significant resources and values. For these areas, if wilderness characteristics are not the central focus of the proposed ACEC, but exist concurrently with the special resource value to be protected, then management prescriptions may protect both.</p>	<p>for BLM, but is required by the FLPMA and National BLM planning and program specific regulations.</p> <p>The FLPMA directs BLM to manage public lands for multiple use and sustained yield (Section 102(a) (7)). As a multiple-use agency, the BLM is required to implement laws, regulations and policies for many different and often competing land uses and to resolve conflicts and prescribe land uses through its land use plans. The BLM's Land Use Planning compatible mix of uses and management prescriptions result. For example, the BLM has separate policies and guidelines, as well as criteria, for establishing ACECs and when the WSAs were established. These differing criteria make it possible that the same lands will qualify as both an ACEC and a WSA but for different reasons. The BLM is required to consider these different policies.</p> <p>The values protected by WSA management prescriptions do not necessarily protect those values found relevant and important in ACEC evaluation, and vice versa. The relevant and important values of ACECs within or adjacent to WSAs were noted in the ACEC Evaluation. The ACECs are evaluated and ranked based on the presence or absence of the stated relevant and important values. None of these values includes wilderness characteristics. Additionally, the management prescriptions for the ACECs are limited in scope to protect the relevant and important values, and the BLM maintains that the size of the ACEC areas is appropriate for protection of the relevant and important values identified.</p>	
EOG Resources,	144	2	MIN	SUWA v. Norton Decision	Comment noted.	

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Inc.			<p>After the U.S. District Court of Utah decision in SUWA v. Norton, 457 F. supp. 2d 1253 (D. Utah 2006) (appeals pending 06-4251 & 07-4223), BLM thought it necessary to further supplement the RMP based on the court's decision. In SUWA v. Norton, the court found that BLM had failed to adequately address information from the 1996-99 wilderness inventory in its NEPA documents. The court did not fault BLM's analysis in the Vernal DPMP, but merely found that the previous RMPs in the Vernal and Richfield offices failed to take into account the wilderness inventories from 1996-99.</p> <p>The 2004 Vernal Field Office DRMP/EIS originally included four alternatives for managing public lands and their resources. In this EIS, Alternative C provided protections for non-WSA lands with wilderness characteristics and specifically analyzed the impacts of oil and gas on these lands. Vernal DEIS-Figure 13 (Oil and Gas Lease-Alt. C). Now, BLM has supplemented it's DRMP/EIS to further analyze non-WSA lands that allegedly contain wilderness characteristics. In its analysis, it treats WSA and non-WSA lands the same and provides for management of these lands to maximize protection of their wilderness values.</p> <p style="text-align: center;">COMMENTS</p> <p>1. Desolation Canyon WCA.</p> <p>Large portions of the Desolation Canyon WCA overlap valid existing federal and state oil and gas leases, as well as other valid existing rights such as grazing allotments. EOG urges BLM not to impose any restrictions upon minerals activity that fall within these areas. These lands already contain extensive human</p>		

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			<p>imprints such as roads, wells, pipelines, and associated infrastructure and do not provide opportunities for enjoyment of naturalness, solitude, or primitive and unconfined recreation.</p> <p>Wild Horse Ranch Road, which forms one boundary of Desolation Canyon WIA Unit 1 and Kings Canyon and Hydes Bench roads, which were evaluated as cherry stem routes within Unit 1, have been upgraded from two-track to two lane oilfield standard roads by blading and other maintenance in recent years. These roads are extensively used by oilfield traffic for development activities and surface pipelines have been installed adjacent to the roads in some areas. Low, rolling topography and absence of trees or other visual obstructions result in distant visibility of oilfield activities. The presence of adjacent uncontested federal and state oil lease suggests that local oilfield development activities will continue.</p> <p>EOG provides the following comments on two specific areas within or near the Desolation Canyon WCA: the North Alger area and the Kings Canyon area. Both of these areas contain recently documented development and extensive valid existing rights.</p> <p>a. North Alger Area</p> <p>The North Alger area consists of those sections within EOG's North Alger project area boundary. The entire North Alger Project are consists of approximately 2,400 acres located in T10S-R19E and T11S-R19E in Uintah County, Utah and contains extensive existing development and related infrastructure. Generally, this area includes Section 27, west half Section 28, east half</p>		

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			<p>of the northeast quarter Section 33m Sections 34 and 35 all, T10S-R19E; and west half of the northwest quarter of Section 1, T11S-R19E.</p> <p>Most recently, in 2007, during the process of preparing a supplement of the Vernal Draft RMP, BLM re-evaluated the wilderness characteristics of the greater Desolation Canyon Area. BLM found that the area east of Kings Canyon Road - which encompasses EOG's North Alger Project area - does not contain wilderness characteristics. Vernal Draft RMP Supplement at 3-3. EOG supports this finding.</p> <p>To further support BLM's 2007 finding, enclosed is a map under Tab A detailing the extensive existing human imprints within and surrounding the North Alger Project area. The information reflected in this map underscores that this area does not meet the requisite criteria for wilderness characteristics. This map depicts a combination of aerial over flight pictures from 2006, as well as digital depiction of additional roads and imprints constructed since 2006. The map shows extensive roads, two-tracks, and well pads within and surrounding the portion of the North Alger Project area that SUWA claims has wilderness characteristics.</p> <p>In addition to showing extensive imprints within the Project Area, this map shows that the immediate surround area contains several roads that traverse through the lands SUWA claims to have wilderness characteristics.</p> <p>Existing Development and Human Imprints.</p> <p>As of November 2007, a total of approximately 138</p>		

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			<p>acres of the North Alger Projects area contain oil and gas development, including:</p> <ul style="list-style-type: none"> 35 producing natural gas wells and their associate facilities. 2 plugged and abandoned well locations. Approximately 18 miles of roads and pipelines. <p>Because topography in the North Alger Project area is relatively level, exhibiting low gradient slopes typically ranging between 2 to 5 percent, well facilities are visible throughout the Project area. Although the western portion of the Project area contains Kings Canyon, an incised, ephemeral drainage, views to the west of the canyon also display well development activity.</p> <p>In addition, an estimated 395 wells have been drilled on 40-acre surface densities within 3 miles of the North Alger Project area, primarily to the northeast and southeast. As described above, oil and gas activity is also occurring to the south and west such that exploration and development can, at times, be seen in virtually all directions.</p> <p>In sun, given the existing infrastructure, valid existing leases and other permitted uses that fall within the North Alger area, EOG supports BLM's finding that this area does not contain wilderness characteristics.</p> <p>b. Kings Canyon Area</p> <p>The Kings Canyon area consists generally of sections within T22S-R19E. This area is located in Unit 1 of the 1999 Desolation Canyon wilderness inventory area. Attached under Tab B is a technical report that details</p>		

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			<p>substantial human imprints, such as pipelines and roads, that exist within this area. These human imprints, combined with the extensive overlapping valid existing rights within this are, underscore that this area does not contain wilderness characteristics in sufficient form to warrant protection through imposition of restrictive management proscriptions.</p> <p>Kings Canyon Road is an improved, crowned, ditched, graveled, Class D road that travels through Section 33, T10S-R19E, and Sections 4, 8, 9, 17, 20, and 29, T11S-R19E, providing access to the area to the uplands to the west of Kings Canyon. Kings Canyon Road is a maintained road used by oil and gas operators for well access and is at least 7 miles long. Uintah County holds a single right-of-way (ROW) for Kings Canyon Road, as well as road 181401A and road 181401B, located west of the North Alger Project area.</p> <p>County road 181401A is a Class D road located in Section 4, T11S-R19E. Country road 181401B is a Class D road that runs from Kings Canyon Road easterly through Section 4 into Section 3, T11S-R19E. Uintah County allows the use of its ROWs for pipeline construction adjacent to the roadway within its ROW. Aboveground pipelines and associated equipment, including a pigging station, valves, and a meter house have been installed along some segments adjacent to Kings Canyon Road. Approximately 9,730 feet of Uintah County Class D roads are located in Section 3 and 4, T11S-R19E.</p> <p>Other roads are located in Section 32 and 33, T10S-R19E, and south of the North Alger Project area in T11S-R19E. A newly constructed unclassified but</p>		

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				<p>maintained oilfield road travels generally west-to-east through the S/2 Section 10 south of North Alger. This road is approximately 4,737 feet long within Section 10 alone, is graveled, and installed with culverts where it crosses the upper reaches of Kings Canyon in the S/2 Section 10.</p> <p>Also, natural gas exploration and development activities have occurred on existing Stat of Utah leases in Section 32 in T10S-R19E and Sections 2 and 17 in T11S-R19E, which falls within this "wilderness characteristics" area. Seven producing gas wells had been drilled in Section 2 and one in Section 17, of T11S-R19E. Oil and gas development, including drilling rigs, trailers, tanks, and roads are visible from topographic high points in Sections 3, 4, and 10, and Section 17 to the south-southwest of North Alger in T11S-R19E.</p> <p>Farther to the south, oil and gas development to the north has resulted in frequent use of Wild Horse Ranch Road by oilfield vehicular traffic. The road also provides access for recreationists and grazing activities. A number of dry stock ponds and cairns believed to have been placed by shepherders were visible. Recreational camping use of the area, particularly in areas of dramatic vistas, is indicated by fire pits. The road also provides access for recreationists and grazing activities.</p> <p>Visual and noise impacts from oilfield activity have affected wilderness values of naturalness, solitude, and opportunities for remote and unconfined recreation in Section 20 and 21, T11S-R19E. Activities associated with construction and operation of natural gas wells and associated facilities have resulted in the production of substantial volumes of noise. Sound levels diminish with</p>		

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			<p>distance. The presence of intervening structures, topography, or vegetation can dramatically reduce the range at which loud sounds can be perceived. Within the study area, the absence of such buffers that generated sounds are likely to be perceived at long distances.</p> <p>In conclusion, given the existing infrastructure, valid existing leases and other permitted used that fall within this portion of the WCA, EOG supports a finding by BLM that the EOG's Kings Canyon area of interest does not contain wilderness characteristics that warrant protection under restrictive management proscriptions.</p> <p>c. Greater Kings Canyon Area</p> <p>In order to place the above discussion into context, it is important to review and take into account the extensive human imprints and valid existing rights that are found in the surrounding greater Kings Canyon area.</p> <p>The greater Kings Canyon area is comprised of portions of T10S-R18E (sections 12-15, 20-29, and 32-36), T10S-R19E (sections 4-9, 18-20, 25-26), T11S-R19E (sections 2-11, 15-21, 29-32) and T11S-R18E (sections 1-2, 13-16, 21-26, 35-36). Approximately 23,630 acres of lands within this area have been determined by BLM to contain wilderness characteristics.</p> <p>Human Imprints. As of November 2007, a total of approximately 505 acres of the Kings Canyon area within the Desolation Canyon WCA contain oil and gas development, including:</p> <p>83 producing natural gas wells and their associate</p>		

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				<p>facilities.</p> <p>46 abandoned well locations.</p> <p>Approximately 32 miles of roads.</p> <p>Approximately 32 miles of surface pipelines; and,</p> <p>approximately 82 miles of travel ways, which consist of routes with no regular maintenance or continuous use.</p> <p>Valid Existing Rights. The greater Kings Canyon area also contains 20 valid existing (uncontested) federal oil and gas leases, as well as 11 suspended federal leases. This area also contains 7 State of Utah oil and gas leases located wholly or partly within the WCA boundary comprising 2,436 acres. This area is also overlapped by portions of 7 grazing allotments (Lower Showalter, Wildhorse Bench, Green River, Little Desert, Green River Bottoms, Bull Canyon, and Wetlands).</p> <p>In conclusion, given the existing infrastructures, valid existing leases and other permitted used that fall within this portion of the WCA, EOG supports a finding by BLM that the greater Kings Canyon region does not contain wilderness characteristics that warrant protection under restrictive management proscription.</p>		
EOG Resources, Inc.	144	3	WC	<p>Valid Existing Rights.</p> <p>Many of the WCAs overlap valid existing federal and state oil and gas leases. Under FLPMA, the valid existing rights and obligations conferred to EOG from the Department of the Interior under these federal leases are not pre-empted, or otherwise excused, by BLM's consideration of potential future WCA and/or ACEC designation for portions of these leased areas. With</p>	<p>Please see Response to MIN ID No. G-144 Comment 9.</p> <p>Please see Response to ID No. G-144-Comment 9.</p>	

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			<p>respect to WCAs, industry holds many leases that were issued prior to enactment of FLPMA. Thus, industry has valid existing rights to continue to access and develop these leases. In addition, BLM cannot preclude industry access to these leases when industry is required to traverse unleashed lands with wilderness characteristics in order to get to its leases.</p> <p>FLPMA states that "[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights." 43 U.S.C. 1701 NOTE (h). 43 C.F.R. 1610.5-3 (b); see also CEC, 165 IBLA at 227 (explaining that "FLPMA expressly provides that '[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights,'" (citing 43 U.S.C. 1701 note (h) (2000)). Thus, operators with pre-FLPMA leases have valid existing rights to develop these leases regardless of the current or future land use designations that may be imposed upon this area. Even if these leases were located in properly designated Wilderness Study Areas (WSA), holders of pre-FLPMA leases have the right to drill these wells.</p> <p>Federal courts and the IBLA has consistently held that operators may develop their leases within WSAs if BLM issued their leases prior to the enactment of FLPMA. See, e.g., Colorado Environmental Coalition v. Bureau of Land Management, 932, F. Supp. 1247, 1251 (D. Colo. 1996) ("those who held existing leases when FLPMA was enacted are exempt from the standard in 603(c) that requires management of such leases in such a way as not to impair suitability for preservation as wilderness." (citing CEC, 135 IBLA 359)); Colorado Environmental Coalition, 135 IBLA 356, 359-360 (1996); SUWA, 100 IBLA 63 (1987); Utah Wilderness Coalition,</p>		

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				<p>91 IBLA 124, 125, 130 (1986).</p> <p>In sum, Alternative E is not a viable alternative for BLM to adopt in the Final Decision Record given the extensive valid existing rights that exist in almost all WCAs for active mining claims, grazing allotments, county road designations, and federal and state oil and gas leases. This non-viability is particularly true for the portions of the Desolation Canyon WCA discussed above. Accordingly, in BLM's Final Decision Record it should make a finding that these particular areas are no longer WCAs.</p>		
EOG Resources, Inc.	144	4	ACE	<p>BLM Cannot Rely on SUWA's Wilderness Characteristics Proposals and Materials Submissions Under the Data Quality Act.</p> <p>Under the Data Quality Act, BLM is required to comply with OMB Guidelines designed to ensure and maximize the "quality, objectivity, utility, and integrity of information disseminated" from BLM to the public. See Section 515 of the 2001 Consolidated Appropriations Act, Public Lay 106-554/ With respect to the Supplement to the Vernal DRMP, it is apparent that BLM has relied to some extent upon data and information submitted by SUWA. This SUWA data/materials contains information that its suspect in quality and highly subjective.</p> <p>As a general matter, many of the SUWA's wilderness proposals to BLM are based upon a small number of pictures and limited text in a given area combined with SUWA's subjective judgments that these areas contain wilderness characteristics. SUWA has failed to provide ground-truthing to cover the entirety of the large swaths of lands it seeks to designate as wilderness characteristics. As a result, literally thousands of the</p>	<p>FLPMA Section 201 gives BLM the authority to inventory for wilderness characteristics. Section 202 of FLPMA gives BLM the authority for planning how the public lands are to be managed. Section 302 of FLPMA gives BLM general management authority for the public lands. It is BLM policy (as stated in its planning handbook and in Instruction Memorandums 2003-274 and 2003-275 Change 1), that through planning, the BLM has addressed non-WSA lands with wilderness characteristics in the October 2007 Supplement to the DRMP/EIS.</p> <p>A Vernal Field Office Interdisciplinary Team reviewed the Non-WSA areas including Human-made disturbances. Where it was determined that the Human-made disturbances were substantially unnoticeable and did not diminished the naturalness of the area, the areas were then determined to have wilderness characteristics.</p>	

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				<p>human imprints that exist within these areas have not been brought to the attention of BLM.</p> <p>As detailed above, one such example of SUWA's "wilderness proposal" is the western extension of the Desolation Canyon WCA. In its 2007 wilderness review, BLM states that SUWA's proposal contained "more detailed data" than BLM's previous inventories. SUWA's submission, was actually just comments on the revisions to the 1999 Reinventory, consisting of one short paragraph of text, one map, and one photograph.</p> <p>In contrast, the ground-truthing data provided by EOG, attached under Tab B, provides the requisite objectivity and quality of data needed for making wilderness characteristics determinations. Given the stark contrast between the nature of SUWA's assertions to BLM, and the ground-truthing data that exists with respect to these areas, BLM should not rely upon SUWA's information in its final decision making process for the Vernal RMP and Decision Record</p> <p>In sum, SUWA has not provided valid and complete data to substantiate their land use proposals. Their data submissions to BLM lack the requisite quality, objectivity, utility and integrity required under the Data Quality Act. Therefore, BLM is precluded from basing a wilderness characteristics designation based upon SUWA data, and cannot disseminated such a land use designation to the public in the Final Decision Record for the Vernal DRMP/</p>		
EOG Resources, Inc.	144	5	SOC	EOG urges BLM to maintain its current policy of not imposing he FLPMA Section 603 non-impairment standard upon non-WSA lands with wilderness characteristics. Similarly, EOG urges BLM not to impose restrictions that would create a de facto non-impairment	There is nothing in the decisions of the Proposed RMP/Final EIS suggesting that the BLM intends to manage these lands under the non-impairment standard, which explicitly applies only to Wilderness Study areas.	

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			<p>policy and unduly hinder minerals exploration and development activities.</p> <p>The IBLA has consistently held that the non-impairment standard does not apply to non-WSA lands, such as WIAs and citizen proposed wilderness areas. CEC, 161 IBLA 386, 395 (2004); CEC, 162 IBLA 293, 300 fn9 (2004); SUWA, 163 IBLA 142, 148, (2004) (wilderness inventory units and WIAs "are not subject to the restrictions on surface disturbing activities afforded WSA's by the non-impairment mandate of section 603 of FLPMA and do not affect the management or use of the public lands involved.") The Board further states "during the planning process and concluding with the actions afar the planning process, BLM will not manage [WIAs] under a congressional designated non-impairment standard, nor manage them as if they are or may become congressionally designated wilderness areas..." SUWA, 163 IBLA 14, 27 (2004) (quoting BLM IM 2003-274 (Spet. 29, 2003). Under FLPMA, BLM can manage lands with wilderness characteristics for other purposes, including oil and gas without regard to the non-impairment standard. SUWA, 163 IBLA at 26.</p> <p>Similarly, BLM should not impose the non-impairment standard, or any other protections upon future management of WSA lands released by Congress from further wilderness consideration. In the event Congress chooses not to designate a WSA, or portions of a WSA, as wilderness, then BLM is not obligated to preserve those wilderness characteristics lands under non-impaired management proscriptions or other similar management provisions that restrict public land uses. Rather, when released from WSA status, these lands revert back to standard public lands and BLM should</p>	<p>Should any WSA in the Vernal Planning area be released from WSA status, the BLM would manage that area as described in Table 2.1 in Chapter2 of the Proposed RMP/Final EIS, rather than under the non-impairment standard.</p>	

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				manage these lands under the principles of multiple use management without restrictions to major uses of public lands.		
EOG Resources, Inc.	144	6	MIN	<p>Withdrawing 5,000 acres or Closing 100,000 Acres of Federal Lands to Oil and Gas Leasing Triggers Additional FLPMA Requirements</p> <p>In the event Alternative E is selected, then over 900,000 acres of federal lands would be closed to oil and gas leasing and development. Therefore, the Department of the Interior would be required to comply with FLPMA's formal withdrawal requirements. FLPMA requires the Secretary of the Interior to provide notice of proposed withdrawal of 5,000 acres or more of federal land from minerals development in the Federal Register and conduct hearings regarding the withdrawal. 43 U.S.C. 1714(b)(l) & (h).</p> <p>Also, Section 202(e)(2) of FLPMA requires the Secretary of the Interior to report to Congress decisions on principle uses of lands in areas greater than 100,000 acres in aggregate. 43 U.S.C. 1712. FLPMA then empowers Congress to review BLM's decision. In the even BLM decides to close 100,000 acres or more to minerals activity in the Final Vernal RMP, then such a decision would automatically trigger this Congressional reporting and review provision</p>	<p>Comment noted. The lands closed to leasing are not proposed to be withdrawn. Therefore the Department of the Interior would not be required to follow the FLPMA process noted in the comment. If the FEIS contains a decision to withdraw lands from mineral entry that are 5,000 acres or more in size, then the process noted would have to be followed.</p> <p>Comment noted. Section 202(e)(2) of FLPMA states "Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate." Thus, the requirement is not upon an aggregate of 100,000 acres or more, but upon a single tract of 100,000 acres or more.</p>	
EOG Resources, Inc.	144	7	ACE	<p>Many of the WCAs in the Vernal Resource Area overlap with proposed ACECs (i.e. Desolation Canyon WCA). In reviewing the WCAs, it is important for BLM to concurrently examine proposed ACECs. Many of the proposed ACECs are overbroad, and appear based solely on the presence of wilderness characteristics. BLM has not identified other substantially significant</p>	<p>Through FLPMA, BLM has authority to designate ACECs where special management attention is required to protect and prevent irreparable damage to important cultural, historic, or scenic values; fish and wildlife resources; or other natural systems or processes or to protect life and safety from natural hazards. Where ACEC values and wilderness</p>	

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			<p>resources and values within these ACECs that meet the relevance and importance criteria detailed in 43 C.F.R. 1610.7-2(a) (explaining that under importance criteria, "substantial significance and values...requires more than local significance and special worth., consequence, distinctiveness, or cause for concern."). Rather, the resources identified are common throughout Utah and the Intermountain West.</p> <p>The BLM Manual on ACECs expressly instructs that: "An ACEC designation shall not be used as a substitute for a wilderness suitability recommendation." BLM Manual 1613 (emphasis added). BLM's ACEC Manual goes on to explain that:</p> <p>If an ACEC is proposed within or adjacent to a WSA, the RMP or plan amendment shall provide a clear description of the relationship of the ACEC to the recommendations being made for the WSA. The relationship shall be described to the level of detail required to avoid misunderstanding or misrepresentation by the public.</p> <p>BLM Manual 1613.</p> <p>The BLM IM regarding consideration of wilderness characteristics in land use plans explains, however, that if ACEC values and wilderness characteristics coincide, then special management prescription associated with an ACEC, if designated, may also protect wilderness characteristics. See BLM IM No. 2003-275, Change 1.</p> <p>As reflected by FLPMA, and expressly stated in FLPMA's implementing regulations, and BLM's IM: "to qualify for consideration of the ACEC designation, such</p>	<p>characteristics coincide, the special management associated with an ACEC, if designated, may also protect "wilderness characteristics: (IM-2003-275). However, BLM policy directs that "an ACEC designation will not be used as a substitute for wilderness suitability recommendations: (BLM-M-16513). Wilderness characteristics were not considered relevant or important values when evaluating or designing management for potential ACECs.</p>	

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				<p>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, Change 1 (emphasis added); see also 43 C.F.R. 1610.7(a)(2) (explaining that under importance criteria, "substantial significance and values...requires more than local significance and special worth, consequence, distinctiveness, or cause for concern.").</p> <p>In sum, wilderness characteristics standing alone do not provide BLM with basis to designate an ACEC. To qualify for ACEC designation, the area must also contain other nationally significant resources and values. For these areas, if wilderness characteristics are not the central focus of the proposed ACEC, but exist concurrently with the special resource value to be protected, then management prescriptions may protect both.</p>		
EOG Resources, Inc.	144	8	WC	<p>Many of the WCAs in the Vernal Resource Area (i.e. Desolation Canyon WCA) overlap with proposed ACECs (i.e. Nine Mile Canyon, Lower Green River and Four Mile Wash ACECs). In reviewing WCAs, it is important for BLM to concurrently examine proposed ACECs. Many of the proposed ACECs are overbroad, and appear to cover solely wilderness characteristics. BLM has not identified other nationally significant resources and values within these ACECs. Rather, the resources identified are common throughout Utah and the Intermountain West. In sum, wilderness characteristics standing alone do not provide BLM with basis to designate an ACEC.</p> <p>For example, in the Vernal DRMP/EIS, BLM explained that the relevance criteria for the Four Mile</p>	<p>Layering of program decisions is not optional for BLM, but is required by the FLPMA, 1976 and National BLM planning and program specific regulations. The FLPMA directed that management of public lands be on the basis of multiple use (Section 102(a) (7). As a multiple-use agency, the BLM is required to implement laws, regulations and policies for many different and often competing, land uses and to resolve conflicts and prescribe land uses through its land use plans. For example, 43 CFR Group 2500 provides guidance and requirements for Disposition; Occupancy and Use of public lands; Group 2800 for Rights-of-way; Group 3400 for Coal Management; Group 6000 for Designated Wilderness, and Group 8200 for Natural History, part 8351 for Wild and Scenic Rivers. Multiple-use</p>	X

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			<p>Wash ACEC was high value scenery, riparian ecosystem and special status fish. BLM explains that the importance criteria include "spectacular scenery" and home to endangered fish in the Green River. These resources are not nationally significant and can be found common throughout the Vernal resource area and Utah. The relevance and importance of this ACEC is confined to the Green River and is properly covered by the Lower Green River ACEC and/or the proposed protection of the Green River as a wild and scenic river. The purported protection of the lands on the plateau up from the Green River for "scenery" is an unlawful attempt to protect lands as an ACEC for "wilderness characteristics". This scenery is not nationally or regionally significant.</p> <p>Accordingly, designation of the Four Mile Wash ACEC would be unwarranted and unlawful. Since BLM has provided no further basis that resources to the west of the canyon rim are nationally significant, BLM should reduce the boundary of the ACEC to only the canyon rims.</p>	<p>management requires a balancing of the mandates for these separate programs.</p> <p>BLM prepares overlays for land disposition, rights-of-way, coal, wilderness, and other special designation areas, etc., and overlays the information to identify conflicts and opportunities on the public lands. Each overlay is designed to meet the requirements law, regulation and policy for the particular program.</p> <p>BLM's Land Use Planning Handbook requires that specific decisions be made for each resource and use (Appendix C, H-1601-1). The required decisions must be included in each of the alternatives analyzed during development of the land use plan. As each alternative is formulated, each program decision is overlain with the other program decisions and inconsistent decisions are identified and modified to be compatible with the objectives of the alternative. The potential conflicts between programs identified in the comment have been analyzed for each of the alternatives in the Final EIS.</p> <p>The Final EIS includes the decisions required for each program and BLM will attempt to ensure that the allowable uses and allocations are compatible and meet the objectives of the selected plan.</p> <p>The balance is within the range of alternatives as some alternatives proposed designation and others do not. Also size and management prescriptions vary between the alternatives. If the protection of the relevant and importance values "outweighs" the other resource uses then the ACEC was proposed under all the alternatives. Through FLPMA, BLM has authority to designate ACECs where special management</p>	

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					<p>attention is required to protect and prevent irreparable damage to important cultural, historic, or scenic values; fish and wildlife resources; or other natural systems or processes or to protect life and safety from natural hazards. Where ACEC values and wilderness characteristics coincide, the special management associated with an ACEC, if designated, may also protect "wilderness characteristics: (IM-2003-275). However, BLM policy directs that "an ACEC designation will not be used as a substitute for wilderness suitability recommendations: (BLM-M-16513). Wilderness characteristics were not considered relevant or important values when evaluating or designing management for potential ACECs.</p> <p>On August 27, 1980, BLM promulgated final ACEC guidelines (45 Federal Register 57318) that clarify that the term "protects" means: "To defend or guard against damage or loss to the important environmental resources of a potential or designated ACEC. This includes damage that can be restored over time and that which is irreparable. With regard to a natural hazard, protect means to prevent the loss of life or injury to people, or loss or damage to property."</p> <p>Thus, BLM is to consider the potential for both reparable and irreparable damage when protecting important historic, cultural, or scenic values; fish and wildlife resources; or other natural systems through ACEC designation. This interpretation is consistent with FLPMA's legislative history and implementing policy. Section 2 of the guidelines clarifies that ACECs are special places within public lands. It states:</p>	

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					<p>“In addition to establishing in law such basic protective management policies that apply to all the public lands, Congress has said that ‘management of national resource lands [public lands] is to include giving special attention to the protection of ACECs, for the purpose of ensuring that the most environmentally important and fragile lands will be given early attention and protection’ (Senate Report 94-583, on FLPMA). Thus, the ACEC process is to be used to provide whatever special management is required to protect those environmental resources that are most important, i.e., those resources that make certain specific areas special places, endowed by nature or man with characteristics that set them apart. In addition, the ACEC process is to be used to protect human life and property from natural hazards.”</p> <p>Relevance and Importance criteria have been expanded in the final EIS.</p> <p>Please see Response to ID No. G-144-Comment 1.</p>	
EOG Resources, Inc.	144	9	WSA	<p>SUWA v. Norton Decision</p> <p>After the U.S. District Court of Utah decision in SUWA v. Norton, 457 F. supp. 2d 1253 (D. Utah 2006) (appeals pending 06-4251 & 07-4223), BLM thought it necessary to further supplement the RMP based on the court's decision. In SUWA v. Norton, the court found that BLM had failed to adequately address information from the 1996-99 wilderness inventory in its NEPA documents. The court did not fault BLM's analysis in the Vernal DPMP, but merely found that the previous RMPs in the Vernal and Richfield offices failed to take into account the wilderness inventories from 1996-99.</p> <p>The 2004 Vernal Field Office DRMP/EIS originally</p>	<p>A planning criteria adopted in the Proposed RMP/Final EIS states: “All decisions made in the RMP and subsequent implementation decisions will be subject to valid existing rights.”</p> <p>The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns,</p>	

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			<p>included four alternatives for managing public lands and their resources. In this EIS, Alternatice C provided protections for non-WSA lands with wilderness characteristics and specifically analyzed the impacts of oil and gas on these lands. Vernal DEIS-Figure 13 (Oil and Gas Lease-Alt. C). Now, BLM has supplemented it's DRMP/EIS to further analyze non-WSA lands that aleegedly contain wilderness characteristics. In its analysis, it treats WSA and non-WSA lands the same and provides for management of these lands to maximize protection of their wilderness values.</p> <p style="text-align: center;">COMMENTS</p> <p>1. Desolation Canyon WCA.</p> <p>Large portions of the Desolation Canyon WCA overlap valid existing federal and state oil and gas leases, as well as other valid existing righs such as grazing allotments. EOG urges BLM not to impose any restrictions upon minerals activity that fall within these areas. These lands already contain extensive human imprints such as roads, wells, pipelines, and associated infrastructure and do not provide opportunities for enjoyment of naturalness, solitude, or primitive and unconfined recreation.</p> <p>Wild Horse Ranch Road, which forms one boundary of Desolation Canyon WIA Unit 1 and Kings Canyon and Hydes Bench roads, which were evaluated as cherry stem routes within Unit 1, have been upgraded from two-track to two lane oilfield standard roads by blading and other maintenance in recent years. These roads are extensively used by oilfield traffic for development activities and surface pipelines have been installed</p>	<p>and alternatives identified by the public. Public participation was essential in this process and full consideration was given to all potential alternatives identified.</p> <p>The BLM determined that a single alternative analyzing the protection of all Non-WSA lands with wilderness characteristics would best provide a reasoned choice among the alternatives. Although the other alternatives do not provide specific management prescriptions to protect Non-WSA, these alternatives analyze and disclose the impacts of the proposed resource management prescriptions, uses and actions on the Non-WSA lands with wilderness characteristics. This gives the public the ability to fully compare the consequences of protecting or not protecting the wilderness.</p>	

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				<p>adjacent to the roads in some areas. Low, rolling topography and absence of trees or other visual obstructions result in distant visibility of oilfield activities. The presence of adjacent uncontested federal and state oil lease suggests that local oilfield development activities will continue.</p> <p>EOG provides the following comments on two specific areas within or near the Desolation Canyon WCA: the North Alger area and the Kings Canyon area. Both of these areas contain recently documented development and extensive valid existing rights.</p> <p>a. North Alger Area</p> <p>The North Alger area consists of those sections within EOG's North Alger project area boundary. The entire North Alger Project area consists of approximately 2,400 acres located in T10S-R19E and T11S-R19E in Uintah County, Utah and contains extensive existing development and related infrastructure. Generally, this area includes Section 27, west half Section 28, east half of the northeast quarter Section 33, Sections 34 and 35 all, T10S-R19E; and west half of the northwest quarter of Section 1, T11S-R19E.</p> <p>Most recently, in 2007, during the process of preparing a supplement of the Vernal Draft RMP, BLM re-evaluated the wilderness characteristics of the greater Desolation Canyon Area. BLM found that the area east of Kings Canyon Road - which encompasses EOG's North Alger Project area - does not contain wilderness characteristics. Vernal Draft RMP Supplement at 3-3. EOG supports this finding.</p>		

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			<p>To further support BLM's 2007 finding, enclosed is a map under Tab A detailing the extensive existing human imprints within and surrounding the North Alger Project area. The information reflected in this map underscores that this area does not meet the requisite criteria for wilderness characteristics. This map depicts a combination of aerial overflight pictures from 2006, as well as digital depiction of additional roads and imprints constructed since 2006. The map shows extensive roads, two-tracks, and well pads within and surrounding the portion of the North Alger Project area that SUWA claims has wilderness characteristics.</p> <p>In addition to showing extensive imprints within the Project Area, this map shows that the immediate surround area contains several roads that traverse through the lands SUWA claims to have wilderness characteristics.</p> <p>Existing Development and Human Imprints.</p> <p>As of November 2007, a total of approximately 138 acres of the North Alger Projects area contain oil and gas development, including:</p> <ul style="list-style-type: none"> 35 producing natural gas wells and their associate facilities. 2 plugged and abandoned well locations. Approximately 18 miles of roads and pipelines. <p>Because topography in the North Alger Project area is relatively level, exhibiting lowgradient slopes typically ranging between 2 to 5 percent, well facilities are visible throughout the Project area. Although the western portion of the Project area contains Kings Canyon, an</p>		

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			<p>idcised, ephemeral drainage, views to the west of the canyon also display well development activity.</p> <p>In addition, an estimated 395 wells have been drilled on 40-acre surface densities within 3 miles of the North Alger Project area, primarily to the northeas and southeast. As described above, oil and gas activity is also occurring to the south and west such that exploration and development can, at times, be seen in virtually all directions.</p> <p>In sun, given the existing infrastructure, valid existing leases and other permitted uses that fall within the North Alger area, EOG supports BLM's finding that this area does not contain wilderness characteristics.</p> <p>b. Kings Canyon Area</p> <p>The Kings Canyon area consists generally of sections within T22S-R19E. This area is located in Unit 1 of the 1999 Desolation Canyon wilderness inventory area. Attached under Tab B is a technical report that details substantial human imprints, such as pipelines and roads, that exist within this area. These human imprints, combined with the extensive overlapping valid existing rights within this are, underscaore that this area does not contain wilderness characteristics in sufficient form to warrant protection through imposition of restrictive management proscriptions.</p> <p>Kings Canyon Road is an improved, crowned, ditched, graveled, Class D road that travels through Section 33, T10S-R19E, and Sections 4, 8, 9, 17, 20, and 29, T11S-R19E, providing access to the area to the uplands to the west of Kings Canyon. Kings Canyon</p>		

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			<p>Road is a maintained road used by oil and gas operators for well access and is at least 7 miles long. Uintah County holds a single right-of-way (ROW) for Kings Canyon Road, as well as road 181401A and road 181401B, located west of the North Alger Project area.</p> <p>County road 181401A is a Class D road located in Section 4, T11S-R19E. Country road 181401B is a Class D road that runs from Kings Canyon Road easterly through Section 4 into Section 3, T11S-R19E. Uintah County allows the use of its ROWs for pipeline construction adjacent to the roadway within its ROW. Aboveground pipelines and associated equipment, including a pigging station, valves, and a meter house have been installed along some segments adjacent to Kings Canyon Road. Approximately 9,730 feet of Uintah County Class D roads are located in Section 3 and 4, T11S-R19E.</p> <p>Other roads are located in Section 32 and 33, T10S-R19E, and south of the North Alger Project area in T11S-R19E. A newly constructed unclassified but maintained oilfield road travels generally west-to-east through the S/2 Section 10 south of North Alger. This road is approximately 4,737 feet long within Section 10 alone, is graveled, and installed with culverts where it crosses the upper reaches of Kings Canyon in the S/2 Section 10.</p> <p>Also, natural gas exploration and development activities have occurred on existing Stat of Utah leases in Section 32 in T10S-R19E and Sections 2 and 17 in T11S-R19E, which falls within this "wilderness characteristics" area. Seven producing gas wells had been drilled in Section 2 and one in Section 17, of T11S-</p>		

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			<p>R19E. Oil and gas development, including drilling rigs, trailers, tanks, and roads are visible from topographic high points in Sections 3, 4, and 10, and Section 17 to the south-southwest of North Alger in T11S-R19E.</p> <p>Farther to the south, oil and gas development to the north has resulted in frequent use of Wild Horse Ranch Road by oilfield vehicular traffic. The road also provides access for recreationists and grazing activities. A number of dry stock ponds and cairns believed to have been placed by sheepherders were visible. Recreational camping use of the area, particularly in areas of dramatic vistas, is indicated by fire pits. The road also provides access for recreationists and grazing activities.</p> <p>Visual and noise impacts from oilfield activity have affected wilderness values of naturalness, solitude, and opportunities for remote and unconfined recreation in Section 20 and 21, T11S-R19E. Activities associated with construction and operation of natural gas wells and associated facilities have resulted in the production of substantial volumes of noise. Sound levels diminish with distance. The presence of intervening structures, topography, or vegetation can dramatically reduce the range at which loud sounds can be perceived. Within the study area, the absence of such buffers that generated sounds are likely to be perceived at long distances.</p> <p>In conclusion, given the existing infrastructure, valid existing leases and other permitted used that fall within this portion of the WCA, EOG supports a finding by BLM that the EOG's Kings Canyon area of interest does not contain wilderness characteristics that warrant protection under restrictive management proscriptions.</p>		

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			<p>c. Greater Kings Canyon Area</p> <p>In order to place the above discussion into context, it is important to review and take into account the extensive human imprints and valis existing rights that are found in the surrounding greater Kings Canyon area.</p> <p>The greater Kings Canyon area is comprised of portions of T10S-R18E (sections 12-15, 20-29, and 32-36), T10S-R19E (sections 4-9, 18-20, 25-26), T11S-R19E (sections 2-11, 15-21, 29-32) and T11S-R18E (sections 1-2, 13-16, 21-26, 35-36). Approximately 23,630 acres of lands within this area have been determined by BLM to contain wilderness characteristics.</p> <p>Human Imprints. As of November 2007, a total of approximately 505 acres of the Kings Canyon area within the Desolation Canyon WCA contain oil and gas development, including:</p> <ul style="list-style-type: none"> 83 producing natural gas wells and their associatee facilities. 46 abandoned well locations. Approximately 32 miles of roads. Approximately 32 miles of surface pipelines; and, approximately 82 miles of travel ways, which consist of routes with no regular maintenance or continuous use. <p>Vallid Existing Rights. The greater Kings Canyon area also contains 20 vallid existing (uncontested)</p>		

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				<p>federal oil and gas leases, as well as 11 suspended federal leases. This area also contains 7 State of Utah oil and gas leases located wholly or partly within the WCA boundary comprising 2,436 acres. This area is also overlapped by portions of 7 grazing allotments (Lower Showalter, Wildhorse Bench, Green River, Little Desert, Green River Bottoms, Bull Canyon, and Wetlands).</p> <p>In conclusion, given the existing infrastructures, valid existing leases and other permitted used that fall within this portion of the WCA, EOG supports a finding by BLM that the greater Kings Canyon region does not contain wilderness characteristics that warrant protection under restrictive management proscription.</p>		
EOG Resources, Inc.	144	10	WC	<p>BLM analysis of Alternative E is premised on BLM determinations that the areas depicted on Map 20e do in fact contain wilderness characteristics. As discussed below, for many of these WCAs, wilderness characteristics do not exist, and BLM's WCA determinations and related analyses are flawed by factual and analytic errors, significant data omissions, and conflicting analyses. EOG's submission of comments on Alternative E and the DRMP Supplement based upon BLM's WCA findings is in no way a concession that any of the areas outside of WSAs contain "wilderness characteristics".</p>	<p>FLPMA Section 201 gives BLM the authority to inventory for wilderness characteristics. Section 302 of FLPMA gives BLM general management authority for the public lands. Section 202 of FLPMA gives BLM the authority for planning how the public lands are to be managed. It is BLM policy as stated in its planning handbook and in Instruction Memorandums 2003-274 and 2003-275 Change 1, that through planning, BLM may consider managing for wilderness characteristics on non-WSA lands. A BLM Interdisciplinary Team conducted an internal maintenance review of non-WSA lands with wilderness characteristics and concluded that the proposed wilderness characteristics areas met the wilderness criteria.</p> <p>Non-WSA lands found either to have wilderness characteristics or likely to have wilderness characteristics will be managed according to the direction established in this land use plan. Unlike for</p>	

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					<p>WSAs, there is no statutory or policy directive requiring BLM to protect the wilderness characteristics of these non-WSA lands. These non-WSA lands have many resource values, and the draft RMP/EIS considered all available information and a range of alternative prescriptions for how the values and uses of the non-WSA lands would be managed. Through its land use planning revision process and to comply with the FLPMA multiple-use mandate, BLM has discretion to choose how the non-WSA lands ultimately will be managed, considering all the values and potential uses of these non-WSA lands and the other lands within the planning area.</p> <p>The BLM's authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712).</p> <p>This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c)(2) (43 U.S.C. §1712(c)(2))) Further, FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land, and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c))) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management,</p>	

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					<p>amongst the various resources in a way that provides uses for current and future generations. The BLM has long acknowledged that FLPMA Section 603 (43 U.S.C. §1782) requiring a one-time wilderness review has expired. All current inventory of public lands is authorized by FLPMA Section 201 (43 U.S.C. §1711). In September 2006, the Utah District Court affirmed that the BLM retained authority to protect lands it determined to have wilderness characteristics in a manner substantially similar to the manner in which such lands are protected as WSAs. Finally, the Utah v. Norton Settlement Agreement does not affect BLM's authority to manage public lands. This Agreement merely remedied confusion by distinguishing between wilderness study areas established under FLPMA §603 and those lands required to be managed under §603's non-impairment standard, and other lands that fall within the discretionary FLMPA §202 land management process.</p> <p>A Vernal Field Office Interdisciplinary Team reviewed the Non-WSA areas including Human-made disturbances. Where it was determined that the Human-made disturbances were substantially unnoticeable and did not diminished the naturalness of the area, the areas were then determined to have wilderness characteristics.</p>	
EOG Resources, Inc.	144	11	WC	<p>Withdrawing 5,000 acres or Closing 100,000 Acres of Federal Lands to Oil and Gas Leasing Triggers Additional FLPMA Requirements</p> <p>In the event Alternative E is selected, then over 250,000 acres of federal lands would be closed to oil and gas leasing and development. FLPMA defines the term "withdrawal" as:</p>	See Response to Comment 144-7-ACE.	

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				<p>"withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program."</p> <p>43 U.S.C 1702(j).</p> <p>Accordingly, closing such a large amount of land to entry for oil and gas leasing, exploration, and development in favor of preserving these lands for wilderness characteristics would meet the broad definition of withdrawal under FLPMA. Therefore, the Department of the Interior would be required to comply with FLPMA's formal withdrawal requirements. FLPMA requires the Secretary of the Interior to provide notice of proposed withdrawal of 5,000 acres or more of federal land from minerals development in the Federal Register and conduct hearings regarding the withdrawal. 43 U.S.C. 1714(b)(1) & (h)</p> <p>Also, Section 202(e)(2) of FLPMA requires the Secretary of the Interior to report to Congress decisions on principle uses of lands in areas greater than 100,000 acres in aggregate. 43 U.S.C. 1712. FLPMA then empowers Congress to review BLM's decision. In the event BLM decides to close 100,000 acres or more to minerals activity in the Final Vernal RMP, then such a decision would automatically trigger this Congressional reporting and review provision.</p>		
EOG Resources, Inc.	144	12	MIN	<p>Valid Existing Rights.</p> <p>Many of the WCAs overlap valid existing federal and</p>	A planning criteria adopted in the Proposed RMP/Final EIS states: "All decisions made in the RMP and subsequent implementation decisions will	

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			<p>state oil and gas leases. Under FLPMA, the valid existing rights and obligations conferred to EOG from the Department of the Interior under these federal leases are not pre-empted, or otherwise excused, by BLM's consideration of potential future WCA and/or ACEC designation for portions of these leased areas. With respect to WCAs, industry holds many leases that were issued prior to enactment of FLPMA. Thus, industry has valid existing rights to continue to access and develop these leases. In addition, BLM cannot preclude industry access to these leases when industry is required to traverse unleased lands with wilderness characteristics in order to get to its leases.</p> <p>FLPMA states that "[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights." 43 U.S.C. 1701 NOTE (h). 43 C.F.R. 1610.5-3 (b); see also CEC, 165 IBLA at 227 (explaining that "FLPMA expressly provides that '[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights,'" (citing 43 U.S.C. 1701 note (h) (2000)). Thus, operators with pre-FLPMA leases have valid existing rights to develop these leases regardless of the current or future land use designations that may be imposed upon this area. Even if these leases were located in properly designated Wilderness Study Areas (WSA), holders of pre-FLPMA leases have the right to drill these wells.</p> <p>Federal courts and the IBLA has consistently held that operators may develop their leases within WSAs if BLM issued their leases prior to the enactment of FLPMA. See, e.g., Colorado Environmental Coalition v. Bureau of Land Management, 932, F. Supp. 1247, 1251 (D. Colo. 1996) ("those who held existing leases when</p>	<p>be subject to valid existing rights."</p> <p>The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public. Public participation was essential in this process and full consideration was given to all potential alternatives identified.</p> <p>The BLM determined that a single alternative analyzing the protection of all Non-WSA lands with wilderness characteristics would best provide a reasoned choice among the alternatives. Although the other alternatives do not provide specific management prescriptions to protect Non-WSA, these alternatives analyze and disclose the impacts of the proposed resource management prescriptions, uses and actions on the Non-WSA lands with wilderness characteristics. This gives the public the ability to fully compare the consequences of protecting or not protecting the wilderness characteristics on these Non-WSA lands. If all alternatives contained comparable protections of the Non-WSA lands with wilderness characteristics, the alternatives would have substantially similar consequences and would not be significantly distinguishable.</p>	

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				<p>FLPMA was enacted are exempt from the standard in 603(c) that requires management of such leases in such a way as not to impair suitability for preservation as wilderness." (citing CEC, 135 IBLA 359)); Colorado Environmental Coalition, 135 IBLA 356, 359-360 (1996); SUWA, 100 IBLA 63 (1987); Utah Wilderness Coalition, 91 IBLA 124, 125, 130 (1986).</p> <p>In sum, Alternative E is not a viable alternative for BLM to adopt in the Final Decision Record given the extensive valid existing rights that exist in almost all WCAs for active mining claims, grazing allotments, county road designations, and federal and state oil and gas leases. This non-biablity is particularly true for the portions of the Desolation Canyon WCA discussed above. Accordingly, in BLM's Final Decision Record it should make a finding that these particular areas are no longer WCAs.</p>	<p>The BLM, in developing the PRMP/FEIS, can chose management actions from within the range of the alternatives presented in the DRMP/DEIS and create a management plan that is effective in addressing the current conditions in the planning area based on FLPMA's multiple-use mandate.</p>	
EOG Resources, Inc.	144	13	MOG	<p>EOG's non-federal lease holdings in the Kings Canyon area include Section 32, T10S-R19E and Section 32, T11S-R19E, both of which are partially bordered by areas determined by the BLM to exhibit wilderness characteristics. Access to each of these sections through areas not determined to have wilderness character may not be possible because of topographic features that preclude road construction or the nearby boundary of the Uintah and Ouray Reservation boundary.</p> <p>Implementation of the restrictions associated with Alternative E could unreasonably restrict EOG from accessing the non-federal leases described above, and/or possibly other non-federal leases that lie within the administrative boundary of the Vernal FO. The proposed restrictions include precluding the issuance of</p>	<p>The BLM does provide for reasonable access to all SITLA lands under all alternatives. Information will be added to Chapter 2, Lands and Realty, Management Common to all action alternatives, that states that reasonable access to State land would be provided including across BLM lands within avoidance and exclusion areas for rights-of-way as specified by the Cotter decision (Utah v. Andrus, 10/1/79).</p>	X

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				<p>rights-of ways (ROWs) in areas determined to have wilderness characteristics. BLM cannot preclude EOG's right of access to its leases.</p> <p>The BLM must not indirectly disallow to its leases by the imposition of a designation that would exclude the issuance of ROWs. By possibly disallowing access to valid leases, the BLM selection of Alternative E would constitute an indirect taking and breach of EOG's lease terms.</p>		
EOG Resources, Inc.	144	14	WC	<p>EOG urges BLM to maintain its current policy of not imposing the FLPMA Section 603 non-impairment standard upon non-WSA lands with wilderness characteristics. Similarly, EOG urges BLM not to impose restrictions that would create a de facto non-impairment policy and unduly hinder minerals exploration and development activities.</p> <p>The IBLA has consistently held that the non-impairment standard does not apply to non-WSA lands, such as WIAs and citizen proposed wilderness areas. CEC, 161 IBLA 386, 395 (2004); CEC, 162 IBLA 293, 300 fn9 (2004); SUWA, 163 IBLA 142, 148, (2004) (wilderness inventory units and WIAs "are not subject to the restrictions on surface disturbing activities afforded WSA's by the non-impairment mandate of section 603 of FLPMA and do not affect the management or use of the public lands involved.") The Board further states "during the planning process and concluding with the actions after the planning process, BLM will not manage [WIAs] under a congressional designated non-impairment standard, nor manage them as if they are or may become congressionally designated wilderness areas..." SUWA, 163 IBLA 14, 27 (2004) (quoting BLM IM 2003-274 (Sept. 29, 2003). Under FLPMA, BLM can manage</p>	<p>The BLM's authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712).</p> <p>This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c)(2) (43 U.S.C. §1712(c)(2))) Further, FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land, and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c))) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, amongst the various resources in a way that provides uses for current and future generations.</p>	

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				<p>lands with wilderness characteristics for other purposes, including oil and gas without regard to the non-impairment standard. SUWA, 163 IBLA at 26.</p> <p>Similarly, BLM should not impose the non-impairment standard, or any other protections upon future management of WSA lands released by Congress from further wilderness consideration. In the event Congress chooses not to designate a WSA, or portions of a WSA, as wilderness, then BLM is not obligated to preserve those wilderness characteristics lands under non-impairment management proscriptions or other similar management provisions that restrict public land uses. Rather, when released from WSA status, these lands revert back to standard public lands and BLM should manage these lands under the principles of multiple use management without restrictions to major uses of public lands.</p>	<p>The BLM has long acknowledged that FLPMA Section 603 (43 U.S.C. §1782) requiring a one-time wilderness review has expired. All current inventory of public lands is authorized by FLPMA Section 201 (43 U.S.C. §1711). In September 2006, the Utah District Court affirmed that the BLM retained authority to protect lands it determined to have wilderness characteristics in a manner substantially similar to the manner in which such lands are protected as WSAs.</p> <p>The BLM is aware that there are specific State laws relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, BLM is bound by Federal law. As a consequence, there may be inconsistencies that cannot be reconciled. The FLPMA requires that BLM's land use plans be consistent with State and local plans "to the extent practical" where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved. The BLM will identify these conflicts in the FEIS/PRMP so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options.</p> <p>Table 2.1 in Chapter 2 of the PRMP/FEIS provides management prescriptions for current WSAs if the Congress chooses to not designate the areas as a WSA.</p>	
EOG Resources, Inc.	144	15	ACE	<p>Many of the WCAs in the Vernal Resource Area (i.e. Desolation Canyon WCA) overlap with proposed ACECs (i.e. Nine Mile Canyon, Lower Green River and Four Mile Wash ACECs). In reviewing WCAs, it is important for BLM to concurrently examine proposed ACECs. Many of the proposed ACECs are overbroad, and appear to</p>	<p>See Response to Comment 144-7-ACE.</p>	

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				<p>cover solely wilderness characteristics. BLM has not identified other nationally significant resources and values within these ACECs. Rather, the resources identified are common throughout Utah and the Intermountain West. In sum, wilderness characteristics standing alone do not provide BLM with basis to designate an ACEC.</p> <p>For example, in the Vernal DRMP/EIS, BLM explained that the relevance criteria for the Four Mile Wash ACEC ws high value scenery, riparian ecosystem and special status fish. BLM explains that the importance criteria include "spectacular scenery" and home to endangered fish in the Green River. These resources are not nationally significant and can be found common throughout the Vernal resource area and Utah. The relevance and importance of this ACEC is confined to the Green River and is properly covered by the Lower Green River ACEC and/or the proposed protection of the Green River as a wild and scenic river. The purported protection of the lands on the plateau up from the Green River for "scenery" is an unlawful attemp to protect lands as an ACEC for "wilderness characteristics". This scenery is not nationally or regionally significant.</p> <p>Accordingly, designation of the Four Mile Wash ACEC would be unwarranted and unlawful. Since BLM has provided no further basis that resources to the west of the canyon rim are nationally significant, BLM should reduce the boundary of the ACEC to only the canyon rims.</p>		
EOG Resources, Inc.	144	16	PRP	<p>The Supplement to the Vernal DEIS/RMP Lacks an Adequate Analysis of Socio-Economic Impacts.</p> <p>BLM has not accurately detailed the negative impact</p>	Section 4.12 in the PRMP/EIS provides a revised analysis of socioeconomic impacts for the Vernal Planning area.	

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			<p>that the Desolation Canyon WCA, or other WCAs in the Vernal Resource Area, would have on development of oil and gas resources or the related negative impact upon Utah and local economies.</p> <p>BLM defined "wilderness characteristics" as lands that contain an outstanding opportunity for primitive and unconfined recreation. BLM, however, in establishing which lands possess wilderness characterizes, fails to analyze or include in its determinations how much, if any, actual recreation occurs on these lands. Thus, Alternative R contains insufficient analysis of actual recreation use of these lands for primitive and unconfined recreation and the socio-economic impacts of protecting these lands solely for their "wilderness" values. See Vernal DRMP/EIS Supp. At 3-1---3-5; 4-53- ---4-48. BLM fails to provide a thorough analysis of the negative economic impacts from protecting all WCAs for their wilderness values. Id. BLM does not include quantifiable economic benefits that would result of selection of Alternative E.</p> <p>In the event BLM chooses Alternative E, or components of Alternative E, in the Final Decision Record for the Final RMP, then Sections 4.8 and 4.10 of the Vernal DRMP/DIES Supp. Should include this analysis. Recreational users must be present to be adversely affected by oil and gas development. EOG recognizes that river floating on the Green River is popular, but other types of primitive and unconfined recreation outside of these rivers in the WCAs is very low. Thus, BLM should quantify, in number of recreational days, the use of the WCAs to justify its economic analysis of protecting lands with wilderness characteristics.</p>		

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				<p>Mineral development plays a large role in the local economic growth and opportunity for Emery and Carbon Counties. Alternative E fails to account for the economic impacts from the restrictions that would be placed on mineral development. These impacts include tax revenues, employment, energy price and royalty payments. BLM should consider the economic impact of restricting oil and gas development on lands that allegedly contain wilderness characteristics before making it's final decision on this RMP.</p> <p>Moreover, oil and gas development has significant impact at all economic scales. Given the extensive oil and gas resources available, development, or lack thereof, in the Vernal Resource Area will literally have a national impact. Natural gas is an extremely inelastic commodity and a small change in supply yields a large change in the price paid by families and industry. The decisions made by the BLM for this Resource Area will directly affect every family in the country. Research conducted by Energy ad Environmentally Analysis, an energy research firm that is respected by both energy suppliers and conservation organizations, indicated that a one percent change in nation supply causes a 20 percent change in the wholesale price of the commodity. The additional supply provided by timely development of oil and gas resources in the Vernal Resource Area would have an impact of hundreds of millions of dollars a year.</p> <p>In the event BLM adopts Alternative E, or components of Alternative E in the Final Decision Record and Final RMP, the BLM must quantify the reduction in economic gain and other impacts that are associated with restrictions imposed for WCAs. Positive</p>		

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				<p>impacts will be realized at the local level through employment and spending for goods and services necessary for development. Production taxes, royalties and leasing bonus and rentals are realized at the Federal, state, and county level. BLM must also consider the impact that planning decisions have on the commodity price at a national level.</p>		
EOG Resources, Inc.	144	17	SOC	<p>The Supplement to the Vernal DEIS/RMP Lacks an Adequate Analysis of Socio-Economic Impacts.</p> <p>BLM has not accurately detailed the negative impact that the Desolation Canyon WCA, or other WCAs in the Vernal Resource Area, would have on development of oil and gas resources or the related negative impact upon Utah and local economies.</p> <p>BLM defined "wilderness characteristics" as lands that contain an outstanding opportunity for primitive and unconfined recreation. BLM, however, in establishing which lands possess wilderness characteristics, fails to analyze or include in its determinations how much, if any, actual recreation occurs on these lands. Thus, Alternative R contains insufficient analysis of actual recreation use of these lands for primitive and unconfined recreation and the socio-economic impacts of protecting these lands solely for their "wilderness" values. See Vernal DRMP/EIS Supp. At 3-1---3-5; 4-53---4-48. BLM fails to provide a thorough analysis of the negative economic impacts from protecting all WCAs for their wilderness values. Id. BLM does not include quantifiable economic benefits that would result of selection of Alternative E.</p> <p>In the event BLM chooses Alternative E, or components of Alternative E, in the Final Decision</p>	<p>The BLM lacks visitation data specific to those areas identified in Alternative E as possessing outstanding opportunities for solitude and/or primitive and unconfined recreation. The Wilderness Act of 1964 assumes that "roadless" areas of 5,000 acres or more provide such opportunities, unless evidence is offered to the contrary. Furthermore, such opportunities need be present only somewhere in the area under discussion, and not necessarily everywhere within the wilderness characteristics unit.</p>	

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			<p>Record for the Final RMP, then Sections 4.8 and 4.10 of the Vernal DRMP/DIES Supp. Should include this analysis. Recreational users must be present to be adversely affected by oil and gas development. EOG recognizes that river floating on the Green River is popular, but other types of primitive and unconfined recreation outside of these rivers in the WCAs is very low. Thus, BLM should quantify, in number of recreational days, the use of the WCAs to justify its economic analysis of protecting lands with wilderness characteristics.</p> <p>Mineral development plays a large role in the local economic growth and opportunity for Emery and Carbon Counties. Alternative E fails to account for the economic impacts from from the restruictions that would be placed on meneral development. These impacts include tax revenues, employment, energy price and royalty payments. BLM should consider the economic impact of restricting oil and gas development on lands that allegedly contain wilderness characteristics before making it's final decision on this RMP.</p> <p>Moreover, oil and gas development has significant impact at all economic scales. Given the extensive oil and gas resources available, development, or lack thereof, in the Vernal Resource Area will literally have a national impact. Natural gas is an extremely inelastic commodity and a small change in supply yields a large change in the price paid by fmailies and industry. The decisions made by the BLM for this Resource Area will directly affect every family in the country. Research conducted by Energy ad Environmental Analysis, an energy research firm that is respected by both energy suppliers and conservation organizations, indicated that</p>		

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				<p>a one percent change in nation supply causes a 20 percent change in the wholesale price of the commodity. The additional supply provided by timely development of oil and gas resources in the Vernal Resource Area would have an impact of hundreds of millions of dollars a year.</p> <p>In the event BLM adopts Alternative E, or components of Alternative E in the Final Decision Record and Final RMP, the BLM must quantify the reduction in economic gain and other impacts that are associated with restrictions imposed for WCAs. Positive impacts will be realized at the local level through employment and spending for goods and services necessary for development. Production taxes, royalties and leasing bonus and rentals are realized at the Federal, state, and county level. BLM must also consider the impact that planning decisions have on the commodity price at a national level.</p>		
EOG Resources, Inc.	144	18	MIN	<p>Withdrawing 5,000 acres or Closing 100,000 Acres of Federal Lands to Oil and Gas Leasing Triggers Additional FLPMA Requirements</p> <p>In the event Alternative E is selected, then over 250,000 acres of federal lands would be closed to oil and gas leasing and development. FLPMA defines the term "withdrawal" as:</p> <p>"withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program."</p> <p>43 U.S.C 1702(j).</p>	See previous comment response to MIN 144-0.	

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				<p>Accordingly, closing such a large amount of land to entry for oil and gas leasing, exploration, and development in favor of preserving these lands for wilderness characteristics would meet the broad definition of withdrawal under FLPMA. Therefore, the Department of the Interior would be required to comply with FLPMA's formal withdrawal requirements. FLPMA requires the Secretary of the Interior to provide notice of proposed withdrawal of 5,000 acres or more of federal land from minerals development in the Federal Register and conduct hearings regarding the withdrawal. 43 U.S.C. 1714(b)(1) & (h)</p> <p>Also, Section 202(e)(2) of FLPMA requires the Secretary of the Interior to report to Congress decisions on principle uses of lands in areas greater than 100,000 acres in aggregate. 43 U.S.C. 1712. FLPMA then empowers Congress to review BLM's decision. In the event BLM decides to close 100,000 acres or more to minerals activity in the Final Vernal RMP, then such a decision would automatically trigger this Congressional reporting and review provision.</p>		
EOG Resources, Inc.	144	19	WC	<p>BLM Cannot Rely on SUWA's Wilderness Characteristics Proposals and Materials Submissions Under the Data Quality Act.</p> <p>Under the Data Quality Act, BLM is required to comply with OMB Guidelines designed to ensure and maximize the "quality, objectivity, utility, and integrity of information disseminated" from BLM to the public. See Section 515 of the 2001 Consolidated Appropriations Act, Public Law 106-554/ With respect to the Supplement to the Vernal DRMP, it is apparent that BLM has relied to some extent upon data and information</p>	<p>Comment noted.</p> <p>A BLM ID Team did reevaluate all data, including SUWAs, in 2007 prior to the release of the Supplement.</p>	

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			<p>submitted by SUWA. This SUWA data/materials contains information that its suspect in quality and highly subjective.</p> <p>As a general matter, many of the SUWA's wilderness proposals to BLM are based upon a small number of pictures and limited text in a given area combined with SUWA's subjective judgments that these areas contain wilderness characteristics. SUWA has failed to provide ground-truthing to cover the entirety of the large swaths of lands it seeks to designate as wilderness characteristics. As a result, literally thousands of the human imprints that exist within these areas have not been brought to the attention of BLM.</p> <p>As detailed above, one such example of SUWA's "wilderness proposal" is the western extension of the Desolation Canyon WCA. In its 2007 wilderness review, BLM states that SUWA's proposal contained "more detailed data" than BLM's previous inventories. SUWA's submission, was actually just comments on the revisions to the 1999 Reinventory, consisting of one short paragraph of text, one map, and one photograph.</p> <p>In contrast, the ground-truthing data provided by EOG, attached under Tab B, provides the requisite objectivity and quality of data needed for making wilderness characteristics determinations. Given the stark contrast between the nature of SUWA's assertions to BLM, and the ground-truthing data that exists with respect to these areas, BLM should not rely upon SUWA's information in its final decision making process for the Vernal RMP and Decision Record</p> <p>In sum, SUWA has not provided valid and complete</p>		

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				data to substantiate their land use proposals. Their data submissions to BLM lack the requisite quality, objectivity, utility and integrity required under the Data Quality Act. Therefore, BLM is precluded from basing a wilderness characteristics designation based upon SUWA data, and cannot disseminated such a land use designation to the public in the Final Decision Record for the Vernal DRMP/		
Moon Ranch, LLC	147	1	GRA	<p>We operate a 400 cow/calf ranch that utilizes the Castle Peak Allotment for winter grazing from November 1st thru April 15th. This permit is vital to our operation and livelihood and therefore we are concerned with the long term health of the range.</p> <p>We are very alarmed that every alternative under the RPM proposes a reduction in AUMs allocated for livestock. There seems to be an obvious bias against livestock and an incorrect assumption that if livestock AUMs are reduced, that forage will improve. We strongly believe this not to be the case for the following reasons:</p> <ol style="list-style-type: none"> 1. Adaptability to Range Conditions. Over the past few years we have voluntary reduced our usage to half to two thirds of our AUMs due to drought and other weather conditions. When forage is in short supply we can adjust our grazing numbers whereas the same numbers of wildlife remain there to overfeed the range on dry years. 2. Water Improvements. We have hired equipment to clean and repair existing ponds on our permit in order to improve distribution of livestock (and wildlife). We are not aware of any wildlife agency making significant water improvements for wildlife on our allotment. 3. Value to Our Ranch. The importance of this BLM allotment to our ranch can be stated quite simply - 	<p>The reduction in AUMs for all alternatives is explained in Table 2.1.6 (Forage – All Localities) of the PRMP/FEIS which states:</p> <p>“When the Vernal RMP becomes effective, The Nature Conservancy (TNC) and the Rocky Mountain Elk Foundation (RMEF) would voluntarily relinquish their grazing permits and the active AUMs permitted to TNC (4,232) and RMEF (4,026) would be allocated to wildlife. Ranchers (grazing permittees) other than TNC and RMEF also have permits in the allotments where these AUMS are relinquished; they would continue to graze cattle in accordance with their permitted use.”</p>	

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			<p>without it we would not be profitable. It is therefore in our self interest to maintain and improve the long term health of the BLM land. The permit also represents a significant investment for our ranch valued around \$400 to \$600 per head. We understand that this investment can only be maintained if we take care of the range. We also know that BLM is under constant pressure from environmental groups to reduce or eliminate livestock on the BLM. We trust you will continue to commitment to multiple use and appropriately value the contributions of the rancher to our economy.</p> <p>Please consider our contributions to the range and our need for the range when you evaluate any livestock AUM reductions.</p> <p>We would like to make a few comments regarding mineral and energy development on the BLM. We recognize the importance of energy development on public lands and support it. However, we offer the following suggestions to the BLM regarding its management:</p> <ol style="list-style-type: none"> 1. Dust. We were very surprised this fall as we unloaded our cattle on the BLM to see the cloud of dust that literally covered the whole country. It appeared unhealthy to human, livestock, and even our diesel trucks. The dust is discussed in multiple places in the RMP but we don't see any remedies in the RMP or on the land. It appeared to us that a majority of the dust was caused by the high speed travel on the 2 main roads (sand wash and parietal) that cross our allotment. Some sort of dust control, at least on the main roads, should be required of the energy companies. We have already had one cow hit and killed on the range this fall. Please 		

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				<p>consider placing speed limit and livestock warning signs on the roads.</p> <p>2. Well pads & Access Roads. A good portion of the well pads and roads to date have been in the flat, which is the lower forage producing area of the allotment. However, proposed well markers are moving into the higher ridge and draw areas which are the prime areas of our allotment. We encourage well placement in these areas be evaluated more carefully to minimize impacts where a majority of the forage thrives. Also, reclamation in these areas will be critical to restoring the natural range after energy production has ceased. Please ensure that the energy production companies are required to reclaim sites to original or better conditions. We believe the reclamation process will require more than one year depending on water conditions.</p> <p>3. Short-term Mitigation. In the past when well permits were issued by the BLM, companies were sometimes required to do some sort of range improvement such as pond construction or repair. This practice seems to have been discontinued and current range managers are unsure how to accomplish this. We suggest that the BLM require some range improvement commitment as a condition when the new wells are permitted. We would like to give our input and suggestions as to the location of these improvements.</p>		
Independent Petroleum Association of Mountain Stat	154	1	WC	While the BLM has a duty under section 201 to inventory lands including those that may contain "wilderness characteristics," the BLM may not unlawfully apply the WSA non-impairment standard to any of those lands found to contain wilderness characteristics. State of Utah v. Norton, 96-cv-870, (D. Utah), Stipulated Settlement at Par. 13, 17. The requirements to	Please see Response to ID No. G-144-Comment 10	

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				inventory and protect are distinct. The BLM must still provide for multiple use even if certain lands contain what the BLM considers to be the elements of wilderness."		
Independent Petroleum Association of Mountain Stat	154	2	WC	Furthermore, containing elements and properties of "wilderness" is entirely distinct form meeting the statutory definition of wilderness under the Wilderness Act. The decision to designate WSAs, in the National Wilderness Preservations System are not proper decisions that the BLM can make during the land use process. The BLM must continue to provide for multiple use for lands outside WSAs.	Please see Response to ID No. G-144-Comment 10	
Independent Petroleum Association of Mountain Stat	154	3	WC	Non-WSA lands are not subject to the WSA non-impairment standard. The IBLA has routinely rejected such arguments. See, e.g., Wyoming Outdoor Council, 147 IBLA 105, 112 (1998) (holding that "BLM properly concluded that the non-WSA lands, within the project areas, are non subject to the [FLPMA] Section 603 (c) standard."); Owen Severance, 118 IBLA 381, 386 (1991) (rejecting an argument that non-WSA lands should be preserved and protected to remain eligible for wilderness consideration and noting that BLM is not required to manage such lands in that manner because the lands have not been designated as WSAs under section 603 of FLPMA.	Please see Response to ID No. G-144-Comment 10	
Independent Petroleum Association of Mountain Stat	154	4	WC	In addition, the Wilderness Inventory Handbook and public notices evidence a vision that would result in a "final decision on identifying Wilderness Study Areas on the public lands." 1978 WIH at 14; Fed. Reg 75574, 75575 ("BLM State Directors have now issued final decisions identifying ... wilderness study areas."). The 1978 WIH also recognized the time constraint for complying with the Section 603 process. Id. At 3 (The BLM had to have its wilderness recommendations to the	Please see Response to ID No. G-144-Comment 10	

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				President by October 21, 1991). Thus, the time for the BLM to create and recommend lands for wilderness designation under FLPMA has expired and those lands not included as wilderness study areas should return to the productive, multiple use status envisioned by FLPMA.		
Independent Petroleum Association of Mountain Stat	154	5	WC	By a 2006 Directive from the BLM Director, the BLM cannot effect a de facto closure of thousands of acres of public lands to oil and gas leasing without following FLPMA's Section 204 withdrawal procedures: "Except for Congressional withdrawals, public lands shall remain open and available for mineral exploration and development unless withdrawal or other administrative actions are clearly justified in the national interest in accordance with the Department of the Interior Land Withdrawal Manual 603 DM 1, and the BLM regulations at 43 C.F.R. 2310." BLM Energy and Non-Energy Mineral Policy (April 21, 2006). The BLM formally adopted this policy through IM 2006-197. Consequently, the 2006 Energy and Non-Energy Mineral Policy with which the BLM must comply, conditions the closure of lands available to mineral exploration and development on FLPMA's withdrawal procedures.	Please see Response to ID No. G-9-Comment 1.	
Independent Petroleum Association of Mountain Stat	154	6	PRP	Based on the foregoing authorities and information, any decision by BLM that has the effect of managing areas under a de facto wilderness standard is contrary to the BLM's authority. In addition any lands removed from mineral leasing based on this criteria is tantamount to a withdrawal of public lands requiring the BLM to comply with the process set forth in 43 U.S.C. Section 1714. There is no mention, let alone discussion in the Supplement of how these protections under the alternatives are not withdrawals of public lands.	The BLM's authority for managing lands to protect or enhance wilderness characteristics comes directly from FLPMA Section 202 (43 U.S.C. §1712). This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c) (2) (43 U.S.C. §1712(c) (2)).) Further, FLPMA makes it clear	

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					<p>that the term “multiple use” means that not every use is appropriate for every acre of public land and that the Secretary can “make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . .” (FLPMA, section 103(c) (43 U.S.C. §1702(c)).) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, amongst the various resources in a way that provides uses for current and future generations.</p> <p>In addition, the BLM’s Land Use Planning Handbook (H-1601-1) directs BLM to “identify decisions to protect or preserve wilderness characteristics (naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation). Include goals and objectives to protect the resource and management actions necessary to achieve these goals and objectives. For authorized activities, include conditions of use that would avoid or minimize impacts to wilderness characteristics.”</p>	
Independent Petroleum Association of Mountain Stat	154	7	PRP	Under the Data Quality Act, the BLM is required to comply with OMB Guidelines designed to ensure and maximum the "quality, objectivity, utility, and integrity of information disseminated" form BLM to the public. See Section 515 of the 2001 Consolidated Appropriations Act, Public Law 106-554. The BLM has an obligation to ensure the integrity of information used in its land standard, and therefore, protection of WCAs would not be legally defensible in the Final Record of Decision for the Vernal RMP.	See comment response 154-B-6.	

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Independent Petroleum Association of Mountain Stat	154	8	PRP	The review documents state that SUWA and the Utah Wilderness Coalition (UWC) provided more detailed information than had been considered during the 1980 inventory, but does not provide details about that information. This additional information should be readily available to the public.	The documents in question are available for public review at the Vernal Field Office upon request.	
Independent Petroleum Association of Mountain Stat	154	9	PRP	...history of the BLM's wilderness determinations outlined in the Wilderness Characteristics Review documents demonstrates that the initial 1979 inventory remains valid today, and these areas do not contain wilderness characteristics. The 1996-1999 reinventory which concluded that many of the areas previously considered not to have wilderness characteristics did, is often short of details supporting the change. Therefore, protection of WCAs as wilderness must be dropped in the Final ROD.	See comment response 154-B-6.	
Independent Petroleum Association of Mountain Stat	154	10	PRP	Alternative E would have a long-term adverse impact on mineral resource development in the planning area by placing additional 277,596 acres off-limits to oil and gas development. The BLM must ensure compliance with the Energy Policy Act of 2005, EPCA, the National Energy Policy, and Executive Order Number 13212, 66 Fed. Reg. 28357 (May 18, 2001) to reduce rather than increase impediments to federal oil and gas leasing. IPAMS strongly opposes adoption of Alternative E.	Comment noted.	
Independent Petroleum Association of Mountain Stat	154	11	LAR	IPAMS support the recognition in Section 4.6.2.3.2 that ROWs may be granted in WCAs for valid existing leases, but that language should be strengthened from "Therefore, ROWs might be granted through these areas, subject to valid existing leases." to "ROWs will be granted as necessary to ensure access to valid existing leases."	BLM accepts the wording changes.	
Independent Petroleum	154	12	CCR	The Supplement does not discuss how WCAs will affect state, fee and tribal surface and mineral owners for	Mineral and Energy Resource impacts are thoroughly discussed in Section 4.8. Impacts to and from WSAs	

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Association of Mountain Stat				equitable multiple use of non-federal lands.	are described in Section 4.14.3.	
Independent Petroleum Association of Mountain Stat	154	13	SOC	In Section 4.12.3.3.3 the BLM fails to quantify the economic stimulus from recreation under Alternative E. It is stated that expenditures for non-motorized recreation would go up and those for motorized recreation would decline, but files to provide any data.	The BLM lacks data on expenditures by the two recreation groups in question, and it cannot predict except in a qualitative fashion what the amount of increased (or decreased) recreation might be.	
Independent Petroleum Association of Mountain Stat	154	14	SOC	Yet the majority of the socio-economic analysis is concerned with this unquantifiable value. So the conclusion is the economy could benefit from primitive recreation, and then again, it may not. This ill-defined economic impact from recreation does not justify the obvious negative impact from the decline in oil and gas economic activity that would result under Alternative E.	The BLM lacks data on expenditures by the two recreation groups in question, and it cannot predict except in a qualitative fashion what the amount of increased (or decreased) recreation might be.	
Independent Petroleum Association of Mountain Stat	154	15	SOC	On page 4-68, it is stated that "To the extent that managing additional lands to preserve wilderness characteristics attracts clients and employees to the planning area, there could be corresponding positive economic benefits to local communities. Local businesses that benefit from the preservation of non-WSA lands, such as wilderness therapy groups or river running outfitters, would benefit the most from Alternative E." In fact, the benefits from "wilderness therapy groups or river running outfitters" are quite small. The University of Utah study cited above looks at all industries in the Uinta Basin, and find that while 4,229 people are employed in mining in the Uintah Basin. The numbers of recreation employees are so low that they cannot disclose the number in Duchesne County, because it would reveal individual company data, but there are 59 employees in Uinta County. The BLM should use the data from this study, which shows that the contribution from recreation is tiny compared to oil and gas. Even if the recreation	The Proposed RMP/Final EIS does not state that gains from recreation under Alternative E would offset losses to minerals under this alternative. The BLM is required to consider a range of alternatives in its planning process, ranging from one that maximizes resource protection to one that maximizes commodity production. The BLM is not required to choose in its Final RMP/proposed EIS those actions which maximize income to the planning area. The Proposed RMP/Final EIS has an expanded discussion of the economic impacts of minerals decisions.	

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				industry were to receive a boost from Alternative E, which is not clear because it cannot address the associated negative impact on motorized recreation, the impact would be quite small compared to the negative impact on the oil and gas industry.		
Independent Petroleum Association of Mountain Stat	154	16	SOC	Closure of 22% of lands with high potential for oil and gas to leasing clearly has implications for the local economy, but also has impacts to national energy consumption, commodity prices, foregone employment opportunities, tax revenues, Utah schools, and Utah's economy. None of these impacts are discussed in section 4.12.3.	The Proposed RMP/Final EIS has an expanded discussion of the economic impacts of the plan's minerals decisions. The impacts to national energy consumption and commodity prices are beyond the scope of the current planning effort.	
Independent Petroleum Association of Mountain Stat	154	17	SOC	A recent study by the University of Utah's Bureau of Economic and Business Research, which is contained in Appendix C to these comments, found that the oil and gas industry n Uintah and Duchesne counties accounts for 49.5% of employment and 60% of total wages. The average wait for exploration and production jobs is \$84,795, about 86% higher than the average wage for recreation jobs, which is \$7,411. These numbers include direct employment numbers of 19.9% of employment and 34.8% of total wages. This shows that the 19.9% of direct employment is multiplied throughout the economy and results in 49.5% of employment, with a similar multiplier effect for wages from 34.8% to 60%. The BLM should incorporate the results of the University of Utah study in the economic analysis of the Supplement to correct the deficiencies in section 4.12 Socioeconomics.	The Proposed RMP/Final EIS relies extensively on the study in question in an expanded analysis of the economic impacts of the plan's minerals decisions.	
Independent Petroleum Association of Mountain Stat	154	18	SOC	The Supplement acknowledges in Table 2-5, page 2-28, a huge decrease in oil and gas jobs, 124,728 fewer, as a result of wilderness protections of WCAs, as compared to the No Action alternative of 215,260 jobs (Vernal DRMP/EIS page 2-95). The table goes on to state that "Protection of non-WSA lands with wilderness	No response required.	

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				characteristics would limit development of mineral and energy resources, but provide tourism opportunities for businesses whose focus is on primitive recreation, and IPAMS suspects that the number would be quite low, certainly nowhere near the 124, 728 jobs that would be lost.		
C.E. Brooks & Associates, P.C.	159	1	OTH	Because the proposed decisions in Alternative E that apply to the lands outside of the non-WSA areas with alleged wilderness characteristics remain exactly the same as those in Alternative C, VRLP hereby incorporates by reference the detailed DRMP/DEIS comments if filed with BLM in June, 2005, the cover letter sent to Jerry Kenzcka, and the comments prepared by Wayne Burkhardt, Ph.D. of Ranges West. For your convenience, VRLP is resubmitting the Kenzcka letter which summarizes the major concerns and legal issues presented by Alternative C.	The issues referenced in the comment are addressed in the response to comments on the DEIS.	
C.E. Brooks & Associates, P.C.	159	2	PRP	BLM incorrectly maintains that the RMP supplement was prepared to ensure consistency with the decision of the U.S. District Court for the District of Utah in SUWA v. Norton, 457 F. Supp. 2d 1253, 1267 (D. Ut. 2006) (Kimball decision). Supplement at 1-2. Judge Kimball did not hold that BLM had an obligation to protect non-WSA areas identified by BLM as possessing alleged wilderness characteristics. Instead, the court only held that National Environmental Policy Act (NEPA) documents supporting a sale of oil and gas leases failed to address the impact on wilderness values. This issue was raised by SUWA in scoping and other public comments. NEPA requires an agency to address every potentially significant issue. 40 C.F.R. section 1402.14(f). The BLM NEPA documents assessing the impacts of selling oil and gas leases did not, in large part, because they pre-dated the 1999	See comment response 9-G-12.	

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				<p>wilderness reinventory report. As to BLM's duty to prevent uninformed decision -making under NEPA, the court held that BLM cannot rely on "outdated planning documents to argue that [the 1999 wilderness re-inventory findings and other significant new information pertaining to wilderness] values were previously identified or that the impacts of oil and gas development on them were previously evaluated." Id. At 1265.</p> <p>Thus, to the extend the Supplement undertakes the necessary analysis to determine what "the environmental effects of leasing and development will be to specific wilderness values," BLM is in compliance with Judge Kimball's decision. Id. Nowhere, however, did the court suggest that BLM must under NEPA and FLPMA adopt protective WSA-type management for these areas. Rather, in doing so, Alternative E violates the terms of BLM's 2003 Settlement Agreement in State of Utah v. Norton, 2:96-CV-0870, 2006 WS 211798 (D. Utah 2006) (appeal pending), and is not a viable alternative. BLM may consider an alternative that requires legislation, but it must disclose the need for such legislation. 40 C.F.R. 1502.14 (c). As BLM acknowledged in 2003 and the Secretary of Interior in 1996, BLM's authority to create WSAs expired. If an agency lacks legal authority, it cannot simply rename the proposed action and assume it now has the authority where it had none before.</p>		
C.E. Brooks & Associates, P.C.	159	3	WC	As agreed to in the Settlement, BLM's wilderness review authority under 603 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1782 (c), has terminated, and as a result, BLM must "refrain from applying the IMP...to BLM lands other than 603 WSAs" and to "not manage or otherwise treat public lands, other than 603 WSAs...as WSAs or as wilderness pursuant to the [FLPMA] 202 process." 2003 Settlement,	Please see Response to ID No. G-144-Comment 10	

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			<p>Stipulations 5 and 6. The district court upheld the Settlement after concluding that it "is consistent with the law and restores the proper interpretation of FLPMA." Norton, 2:96-CV-0870 at 24.</p> <p>While the Alternative E does not use "WSA" or "IMP" terms to define the protective management of the non-WSA lands, there is no question that the effect of Alternative E is to create WSA-type management. Under Alternative E, all non-WSA lands with alleged wilderness character would be managed without exception as follows: (1) VRM Class I, (2) Closed to OHV use, (3) Closed to oil and gas leasing, (4) Closed to solid mineral leasing, (5) Closed to disposal of mineral , (6) Proposed for withdrawal from mineral entry, (7) Retain public lands in federal ownership, (8) Exclusion area for ROW's, (9) Closed to permitted commercial and personal-use wood cutting and seed collection, and)10) Closed to new road construction. Supplement at 2-21.</p> <p>Under the Settlement, not only may BLM not create 202 WSAs, it may not "treat public lands...as WSAs" through its land use planning process. The foregoing management prescriptions impose IMP-level management and unlawfully "treat" the non-WSA lands with alleged wilderness characteristics as de facto WSAs. Alternative E, in fact, adds a catch-all management prescription which actually blatantly carries forward FLPMA 603's WSA non-impairment mandate: "No actions would be allowed that would degrade the wilderness characteristics of the non-WSA lands with wilderness characteristics." Id.</p> <p>Alternative E's protection of the non-WSA areas as if they were WSAs, therefore, violates the Settlement and</p>		

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				<p>the proper interpretation of FLPMA agreed to by BLM. As the Supreme Court has emphasized, NEPA does not obligate an agency to examine actions or effects of actions that are beyond the agency's authority. Dept. of Transport. V. public Citizen, 541 U.S. 752 (2004). Thus, the de facto WSA designation of these areas is not an alternative available to BLM and cannot be considered an option in BLM's land use planning. This does not preclude BLM from developing the Supplement to provide a detailed evaluation and analysis of the impacts of its management decisions on wilderness values. Any consideration, however, needs to also disclosed at BLM cannot adopt the alternative without new legislation and without violating the Settlement Agreement.</p>		
C.E. Brooks & Associates, P.C.	159	4	WC	<p>As authority for Alternative E, BLM relies on a general provision in its Land Use Planning Handbook which directs BLM to "[I]dentify decisions to protect or preserve wilderness characteristics." H-1601-1. Supplement at 1-2 (citing BLM Handbook H-1601-1). The direction is taken from an expired Instruction Memorandum 2003-275 which allegedly implemented the terms of the Settlement: "Wilderness characteristics are features associated with the concept of wilderness that may be considered in land use planning," and lands with wilderness characteristics "may be managed to protect and/or preserve some or all of those characteristics." This may include protecting certain lands in their natural condition and/or providing opportunities for solitude, or primitive unconfined types of recreation. IM 2003-275 at 2.</p> <p>This does not mean that BLM can use the land planning process to impose a wilderness land use allocation for these areas similar to the management of WSAs to the exclusion of multiple use. The district court expressly</p>	<p>The BLM's authority for managing lands to protect or enhance wilderness characteristics comes directly from FLPMA Section 202 (43 U.S.C. §1712). This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c) (2) (43 U.S.C. §1712(c) (2)).) Further, FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, section 103(c) (43 U.S.C. §1702(c)).) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management,</p>	

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				<p>affirmed the Settlement in this respect:</p> <p>" It makes no sense that the same Congress that jealously recognized its sole authority to declare wilderness and that set up two major laws (the Wilderness Act and FLPMA) to accomplish a properly considered exercise of that authority, would have created within one general section (section 202) of FLPMA an open-ended authority on the part of the executive branch of government to create WSAs which, once created, result in de facto wilderness."</p> <p>Norton, 2:96-CV-0870 at 29.</p> <p>Rather, throughout the land use planning process, BLM may consider all available information, including assessments of wilderness character, "to determine the mix of resource use and protection that best serves the FLPMA multiple use mandate." BLM IM 2003-275 at 2, Attachment 1.</p>	<p>amongst the various resources in a way that provides uses for current and future generations.</p>	
C.E. Brooks & Associates, P.C.	159	5	WC	<p>As further supported by Daggett county's field notes and photographs submitted with its comments, the Cold Spring Mountain, Mountain Home and Lower Flaming Gorge non-WSA areas do not meet Wilderness Act criteria or naturalness, or outstanding opportunities for solitude or primitive and unconfined types of recreation. Some segments such as the one within the Cold Spring Mountain non-WSA area also do not meet the 5,000 roadless acre size criteria. 16 U.S.C. 1131 (c). These three non-WSA areas are, in fact, trammled by miles of roads and trails and reflect the blatant imprint of man's work, including fences, water developments, irrigation diversions and ditches, stock ponds and reservoirs, telephone and power lines, existing oil and gas wells, and old well locations. The major construction of the</p>	<p>Please see Response to ID No. G-9-Comment 2.</p>	

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				<p>interstate Kanda pipeline can be seen from all three non-WSA areas. As well as a phosphate pipeline and other natural gas pipelines. There is also a huge gas storage and collection facility within the Clay Basin allotment visible from the Mountain Home and Cold Spring Mountain non-WSA areas. This lighted 24-hour facility is visible day and night, and the compressor emits the pervasive, unmistakable odor of industrial development.</p> <p>BLM's analyses of solitude in the wilderness characteristics worksheets also completely fail to take into account the Taylor Flats subdivision contiguous to the Lower Flaming Gorge non-WSA area, and the major recreation facilities nearby on the Green River. There are two campground near the non-WSA lands that have toilet facilities, fire pits, and motorized traffic. There is also a interpretative recreation center that bring in traffic with related noise incompatible with solitude and primitive recreation. BLM only considers "minimal recreation facilities" as consistent with wilderness criteria. Supplement at 2-10. BLM also do not address the light impacts from the Taylor Flats subdivision or the Town of Manila, the latter of which affect the Cold Spring Mountain and Mountain Home non-WSA areas. The Cold Spring Mountain non-WSA area even has an active airstrip. See BLM Cold Spring Mountain Wilderness Characteristics Review (2007). Both the residential and recreation activities bring motorized traffic and related noise that are incompatible with wilderness management.</p>		
C.E. Brooks & Associates, P.C.	159	6	WC	Further, there is no mention of the traffic related impacts to alleged wilderness values as a result of US Highway 191, a major highway visible from the Mountain Home and Cold Spring Mountain non-WSA areas. In this regard, there is currently a proposed paved, two land	Please see Response to ID No. G-9-Comment 2.	

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				road over the top of the Mountain Home non-WSA area that BLM also failed to consider.		
C.E. Brooks & Associates, P.C.	159	7	WC	Moreover, due to the fact that 49% of the Mountain Home non-WSA area has been leased for oil and gas activity (a valid existing right), BLM anticipates a 4,524 acre direct loss of natural characteristics and reduction in quality of the opportunities for solitude and primitive and unconfined recreation due to sights and sounds of oil and gas development. Supplement 4-174; BLM Mountain Home Wilderness Characteristics Review (2007) (the total area being affected is 64%). By BLM's own admission, therefore, the area cannot be managed in the future to preserve its alleged wilderness character. It is well recognized that operations conducted pursuant to a lease will impair the suitability of an area for preservation as wilderness. See Solicitor's Opinion, 86 I.D. 89, 114 (1976).	Please see Response to ID No. G-9-Comment 2.	
C.E. Brooks & Associates, P.C.	159	8	WC	In addition, neither the Supplement nor the wilderness characteristics review worksheets rationally explain how wilderness criteria is satisfied when the same non-WSA areas were rejected and dropped from further wilderness consideration by BLM in 1979. With regard to the Mountain Home inventory unit, BLM concluded that man's influence was noticeable in the north and south areas of the unit, and that the unity did not provide for outstanding opportunities for solitude or a primitive or unconfined type of recreation. Utah BLM Initial Inventory Proposals, p. 104 (April 1979).	Please see Response to ID No. G-9-Comment 2.	
C.E. Brooks & Associates, P.C.	159	9	WC	With regard to Lower Flaming Gorge, formerly known as the Diamond Mountain Inventory Unit, BLM concluded that the area is broken and irregular in shape, bounded and intersected by privately-owned lands, and that man's impact is substantially noticeable in the northern part of the unit. Thus, the land form and the privately-owned	Please see Response to ID No. G-9-Comment 2.	

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				<p>flat-bottomed canyons that break up the unit restrict the opportunities for solitude and primitive or unconfined type of recreation. Id. This intermingled land pattern exists in all three non-WSA areas, and BLM simply could not effectively manage these areas to manage or preserve the alleged wilderness character. These areas also feature permanent structure related to ranching, such as irrigation facilities for the meadows, and fences.</p> <p>The record does not show that these developments and intrusions have disappeared. In most cases, there are more, rather than less, permanent structures and evidence of development. Instead BLM appears to have ignored the definition of wilderness when finding there was wilderness character. We find evidence supporting this conclusion where BLM's own wilderness characteristics review worksheets do not correctly apply wilderness criteria to these non-WSA areas. BLM consistently looked to the existence of "opportunities" for solitude, and primitive and unconfined recreation, as opposed to outstanding opportunities for solitude and outstanding opportunities for primitive and unconfined recreation. 16 U.S.C. 1131 (c), BLM Handbook H1601-1 at App. C, p. 12; 2005 DRMP/DEIS at GL-18.</p>		
C.E. Brooks & Associates, P.C.	159	10	WC	<p>The public was never provided the opportunity to participate in or rebut BLM's 1999 Utah Wilderness Re-inventory Report or BLM's internal review of the "new information" submitted by SUWA and UWC. BLM assured the U.S. Tenth Circuit Court of Appeals that if it later decided to consider revising land use plans to change the management of lands included in the inventory, full public participation rights would be afforded. State of Utah et al. v. Babbitt et al., 137 F.3d 1193, 1209 (10th Circ. 1998). The court specifically held that a claim to set aside a land use plan revision would</p>	<p>A BLM ID Team did reevaluate the wilderness characteristics information, including the 1999 re-inventory, in 2007 prior to the release of the Supplement. The Supplement provided an opportunity for the public to comment during the comment period.</p>	

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				lie if public participation was denied, including a challenge to the results of the inventory if the results are utilized in proposing a revision to a land use plan. Id.		
C.E. Brooks & Associates, P.C.	159	11	WC	Moreover, while NEPA does not require courts to resolve disagreement, BLM must consider all relevant factors and provide a reasoned analysis and disclosure of the evidence before it. <i>Salmon River Concerned Citizens v. Robertson</i> , 32 F.3d 1346 (9th Cir. 1994). BLM, therefore, must now objectively consider and evaluate the public's input disputing the wilderness characteristics of these non-WSA areas.	Comment noted.	
C.E. Brooks & Associates, P.C.	159	12	GRA	<p>BLM states that new livestock facilities can be constructed in these non-WSA areas if consistent with the goals and objectives of the protection of alleged wilderness character. Supplement at 4-34. BLM must qualify this statement with the acknowledgement that in practice, it would be virtually impossible for a livestock permittee to secure the approval of range improvement projects in these areas for the proper management of their livestock operations. This certainly has been VRLP's experience with WSAs.</p> <p>Under standard WSA policy the construction of range improvements is rarely considered compatible with the non-impairment of wilderness character, and if they are, the projects are usually held up in litigation at considerable cost to the grazing permittee. See <i>Committee for Idaho's High Desert</i>, 139 IBLA 251, 255 (1997). Under the IMP, for example, temporary livestock developments are approved only if they "truly enhance wilderness values." Permanent livestock development must do the same and be substantially unnoticeable. Water developments are limited to springs where the water trough blends into the surrounding landscape as a</p>	<p>Comment noted.</p> <p>The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which includes changes in grazing, increases in grazing, and livestock developments, etc.</p>	

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				<p>whole. BLM Manual H-8550-1 at 41-42. The BLM WSA IMP imposes Class II VRM but Alternative E would impose the more restrictive Class I VRM management.</p> <p>Range improvements are also clearly incompatible with the VRM Class I objectives established for the non-WSA lands with alleged wilderness character. The objective of this class is to preserve the existing character of the landscape and only does not preclude very limited management activity. The level of change to the characteristic landscape must be very low and must not attract attention. BLM Handbook H-8410-1.</p>		
C.E. Brooks & Associates, P.C.	159	13	GRA	<p>Under NEPA, BLM needs to consider the full spectrum of the affected environment, including impacts to livestock grazing. 40 C.F.R. 1508.13, 1508.14.</p> <p>Contrary to BLM's statement that the exact locations of rangeland projects and treatments are presently unknown, Supplement, at 4-93, VRLP has planned range improvements that are critical to the effective management of its livestock operation and to ensure that it maintains, meets, or makes substantial progress towards meeting rangeland health standards. These projects were planned jointly with the BLM and in some cases, the Utah Division of Wildlife Resources. In many cases, the exact location of these projects has been discussed with BLM in meetings. The plans are found in grazing plans submitted to BLM or allotment management plans.</p> <p>The Supplement must consider the impacts on VRLP's livestock operation and the environment if these range improvements were not allowed to proceed. VRLP also has planned vegetation treatments with BLM, Division of Wildlife, and state lands. The Supplement needs to</p>	See comment response 20-O-15.	

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				<p>consider the direct, indirect, and cumulative impacts to the rangeland environment from prohibiting such treatments. Because the EIS incorrectly assumes no impact, it does not address the impacts of limiting or prohibiting improvements that will otherwise improve riparian areas and meadows, rejuvenate decadent stands of sage brush, or reduce encroachment of woody species (pinion-juniper) to benefit sage brush. In addition, VRLP would be prohibited from accessing existing range improvements by motor vehicle in order to repair and maintain them, see id. At 2-10-11, and BLM needs to identify the affected range improvements and potential impacts to the environment if these planned improvements cannot go forward. VRLP is currently pursuing additional tri-state vegetation and habitat management projects, any one of which would be prohibited or restricted under Alternative E.</p> <p>BLM's evaluation of impacts must also not be unfairly narrow. VRLP's interstate livestock operation is intricate and complex, and its effective administration depends on the maintenance of existing facilities and the successful completion of planned range improvements projects and vegetation treatments. While Alternative E's management decisions are limited to the non-WSA areas, the potential impacts are much greater and can significantly affect VRLP's Colorado and Wyoming grazing operations.</p>		
C.E. Brooks & Associates, P.C.	159	14	GRA	Under Alternative E, a total of 77,294 Animal Unit Months (AUMs) would be allocated to livestock, a total of 106,196 AUMs would be allocated to wildlife, and a total of 3,960 AUMs would be allocated to wild horses. The number of livestock AUMs was determined by removing historic non-use AUMs (available AUMs not used over the past 10 years) from the no action alternative for the	The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands "regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses". FLPMA further	

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			<p>life of the management plan. Non-use by permittees would be the result of factors such as private business reasons, livestock market fluctuations, and drought conditions. This would result in an approximate 47.1% permitted reduction for livestock as compared to the no action alternative, which would have a major adverse impact on the livestock and grazing resource. Supplement at 4-31.</p> <p>In order to adequately consider the impacts to livestock grazing, BLM must specifically identify the allotments which would lose non-use AUMs and calculate the number of lost AUMs by allotment. In addition, BLM fails to articulate a legal or factual basis to reduce permitted use, and as written, Alternative E violates BLM grazing regulations.</p> <p>BLM may not adopt an across the board reduction in permitted use in the EMP. Permitted use includes non-use, 43 C.F.R. 4100.0-5, and BLM may only reduce permitted grazing use when monitoring or field observations or ecological site inventory or other data demonstrate that grazing use is causing an unacceptable level or pattern of utilization, that rangeland health standards are not being met or that use exceeds livestock carrying capacity. 43 C.F.R. 4110.3, 4110.3-2.</p> <p>Furthermore, changes in permitted use may only be implemented by appealable decision, on a case by case basis, after consultation, cooperation and coordination with the affected grazing permittee. Id. At 4110.3-3. Alternative E's unilateral elimination of grazing non-use, therefore, is illegal.</p>	<p>provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. See comment response LG45A regarding FLPMA policy to manage the public lands on the basis of multiple use and sustained yield.</p> <p>While it is the goal of the BLM to enhance rangeland health while providing for and recognizing the need for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM to maximize the number of domestic livestock AUMs. According to section 2 of the TGA, it is the objective of the act to regulate the occupancy and use of the Grazing Districts and to preserve these lands.</p>	

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Bjork Lindley Little PC	176	1	MOG	In the Federal Land Policy and Management Act of 1976 (FLPMA), Congress designated mineral exploration and production a principal or major use of the federal public lands. Oil and gas leasing and development on the public lands plays an important role in local and national economies. Royalties and severance taxes provide vital revenues to federal, state, and local governments, and jobs generated by oil and gas development boost local economies.	<p>The Federal Land Policy and Management Act (FLPMA) requires that BLM manage the public lands for Multiple Use. Section 103(c) of FLPMA defines Multiple Use as follows: "The term 'multiple use' means . . . harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output." Additionally, given that the implementation schedule for the RMP will vary in the future based on national priorities, available workforce, and funding, etc., there is no way to meaningfully evaluate costs and benefits of the alternatives. Therefore, a cost-benefit analysis is not central to the planning effort and is not required for consideration of multiple-use planning alternatives.</p> <p>(From Universal Comment response PRP-2R)</p>	
Bjork Lindley Little PC	176	2	MLE	Under Alternative E, the BLM proposes to close 277,596 acres of public lands that are not wilderness study areas (WSAs), but that allegedly have wilderness characteristics, to oil and gas leasing. Because the BLM inappropriately relied on outdated information to determine which non-WSA areas allegedly have "wilderness character", the BLM must reevaluate this information before basing management decisions on it.	As part of BLM's wilderness characteristics inventory maintenance, BLM performed a combination of data and on-site reviews. This included specific field inspections, Interdisciplinary team review of data such as range files, County and BLM GIS data, and high-resolution 2006 aerial photographs. The BLM's findings are described in the 1999-2003 wilderness re-inventory documentation, as well as the 2007 wilderness characteristics review process. The BLM is confident of high-standard approach used to inventory the public lands and stands by its findings, particularly the findings, which involved wilderness characteristics inventory maintenance.	

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Bjork Lindley Little PC	176	3	SOC	In its analysis of the socioeconomic impacts of adopting Alternative E, the BLM did not adequately address the impacts of limiting oil and gas development over such large areas on local, state, and national economics. Additionally, Alternative E runs afoul of the requirements of FLPMA because it does not disclose the planned withdrawal of more than 5,000 acres from oil and gas leasing, as required by Section 204 of FLPMA. Additionally, the document fails to explain that Alternative E proposes management decisions that exclude a principal or major use from more than 100,000 acres, which must be reported to Congress pursuant to Section 202 of FLPMA.	<p>The Proposed RMP/Final EIS has an expanded discussion of the economic impacts of the plan's minerals decisions. The impacts to national economics are beyond the scope of the current planning effort.</p> <p>Alternative E is not inconsistent with the FLPMA because the withdrawal requirements noted are not requirements that BLM must meet in order to analyze an alternative to an RMP. Nor is BLM required to disclose to congress that a principal or major use may be excluded if an alternative is selected. Alternative E is one of 5 alternatives under consideration as part of the Vernal RMP. BLM will comply with all requirements of FLPMA once final decisions are made in a signed record of decision, but it has no obligation to notify congress of the potential uses that may, or may not, be excluded.</p>	
Anadarko	188	1	PRP	Essentially, under this alternative, BLM would be managing the lands as if they had been designated as wilderness in contravention of BLM's mandate under the Federal Land Policy and Management Act to manage lands under the principles of multiple use and sustained yield and contrary to existing information demonstrating that such lands do not qualify as wilderness.	See comment response 154-B-6.	
Anadarko	188	2	PRP	The EIS fails to support the need for BLM to adopt such an overly restrictive option especially in light of the fact that most of the lands proposed for protection because of wilderness characteristics do not meet the criteria for wilderness.	See comment response 154-B-6.	
Anadarko	188	3	WC	Moreover, BLM has failed to analyze the potential impacts of any such designation on valid existing rights. For example, BLM proposes to preclude issuance of rights -of-ways over lands designated as having	BLM does not deny access where there is no other access. BLM also does not deny access if related to another right. Summary of Comments for Vernal RMP/EIS LR12A	

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				wilderness characteristics. To the extent such lands provide the only means of access to valid, existing leases, BLM lacks the authority to prevent such access		
Anadarko	188	4	ACE	In addition to the above, under Alternative E (page 2-14), BLM has proposed to designate a number of areas of critical environmental concern (ACECs). Anadarko believes BLM has failed to clearly demonstrate that such areas qualify for protection as ACECs.	<p>Please see Response to ID No. Organization-174-Comment 4 and ID No. Organization -174-Comment 7.</p> <p>The commenter does not provide specific concerns with individual proposed ACECs. The BLM has identified, through and interdisciplinary team, the Relevance and Importance criteria for each proposed ACEC.</p>	
Anadarko	188	5	WHB	BLM has failed to analyze the potential impacts of such a designation on existing leases.	The Proposed RMP/Final EIS provides information and analysis of Wild Horses on mineral leasing in Chapter 4.	
Utah Farm Bureau Federation	192	1	GRA	Utah Farm Bureau is concerned where RMPS are proposing reallocation for wildlife, retirement or conservation purposes, clearly in violation of federal law (Taylor Grazing Act) and the historically stated agency position. Farm Bureau opposes the use of the planning process for the purpose of circumventing the longstanding principle “chiefly valuable for grazing” mandated in Taylor Grazing. The BLM land use planning process only provides authority to regional offices to make minor changes and temporary adjustments related to rangeland health. Furthermore, Solicitor Myers’ found that the Secretary of the Interior (BLM) cannot “establish, eliminate or modify the boundaries of a grazing district without determining that the affected ground displaced from grazing is no longer chiefly valuable for grazing.” The Vernal RMP or any other BLM filed office proposing transfer of livestock grazing rights for retirement, conservation or to wildlife grazing clearly violates this	See comment response 190-O-12.	

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				"chiefly valuable" doctrine.		
Utah Farm Bureau Federation	192	2	GRA	<p>FLPMA requires consistency with state and local governments. BLM must provide consistency with Utah's Land Use Management Plans and related statutes as well as county land use plans within the obligation of federal law. Utah House Bill 264 in 2006, passed by both houses of the Utah Legislature and signed into law by Governor Jon Huntsman codifies the state's public lands grazing policy. Please reference the following Utah State Statute and county policy [see letter] as they relate to agency consistency. State Policy for Public Lands Grazing, Utah Code 63-38d-401(6)(m).</p>	<p>In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A</p>	

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					consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.	
Utah Farm Bureau Federation	192	3	WAT	RMP language discouraging the development of springs and water resources on BLM managed lands is contrary to common sense. Water is the lifeblood of Utah and our rural communities. Development of water is paramount to agriculture and rural economic development. Water leaving federal lands falls under Utah State Statues related to beneficial use. Riparian areas and in-stream flows are not defined as beneficial use under Utah law.	Comment noted. The commenter does not provide information on where the RMP discourages development of springs and/or water resources on BLM managed lands.	
Utah Farm Bureau Federation	192	4	VEG	We are concerned with the concept of management through natural processes including wildlife, disease and insects. This in conflict with local management plans and also conflicts with BLM's responsibility of multiple use and sustained yields under FLPMA.	<p>In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved or reconciled.</p>	

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					Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.	
Utah Farm Bureau Federation	192	5	SOL	Suggestions within the RMP that reduced grazing decreases erosion are contrary to science. Most of the soils are heavy clay, resisting water infiltration. Grazing disturbs the surface crust, allowing moisture into the soil and fertilizer perpetuating plant germination.	Comment noted	
Utah Farm Bureau Federation	192	6	FIR	Livestock grazing is an important wildfire management tool. Grazing should be recognized as a tool for habitat manipulation and wildlife control. Optimum grazing of invasive species may not be within the agency's recognized grazing period, but would benefit from livestock harvest. In addition, areas may benefit from increasing prescribed numbers of livestock to manage build up of fuels.	Comment noted.	
Utah Farm Bureau Federation	192	7	VRM	Visual Resource Management (VRM) is too abstract, does not comply with scientific principles, and is not measurable. Once established, there is little ability to provide measurable inputs and science to make changes. The use of visual resource management is viewed as an attempt to establish de-facto wilderness in Utah.	The RMP process establishes specific management objects for the area's visual resources based on the various resources uses and values. These designations are developed through public participation and collaboration. Subsequent to the land use planning process, a determination is made whether proposed surface-disturbing activities or development will meet the visual resource management objectives established for the area and	

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					<p>whether design adjustments will be required. A visual contrast rating process is used for this analysis, which involves comparing the project features with the major features in the existing landscape using the basic design elements of form, line, color, and texture. This process is described in the BLM Handbook H-8431-1, Visual Resource Contrast Rating. The analysis is then used as a guide for resolving visual impacts. Once every attempt is made to reduce visual impacts, the BLM managers can decide whether to accept or deny project proposals. Managers also have the option of attaching additional mitigation stipulations to bring the proposed surface-disturbing activity into compliance.</p>	

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United States Environmental Protection Agency	6	1	AQ	The Final EIS/RMP will need to assess the cumulative impact from all reasonably foreseeable development particularly for air quality impact that could adversely affect visibility in protected areas and to help assure that the National Ambient Air Quality Standards (NAAQS) are maintained, especially for pollutants such as fine particulate matter (known as PM2.5) and ozone (O3) during these future development conditions.	A cumulative air quality analysis was performed. See section 4.	
United States Environmental Protection Agency	6	2	AQ	Not that the daily PM2.5 NAAQS was lowered in October, 2006, from 65 ug/m3 to 35 ug/m3. The assessment should reflect this new lowered standard for the 24-hour particulate matter criteria.	The modeling analysis was completed well before this change occurred.	
United States Environmental Protection Agency	6	3	AQ	In our 2005 letter, EPA noted that the Preferred Alternative could result in approximately 8,000 additional acres of public lands which may become available for oil shale development. This is now the subject of the programmatic Draft EIS for future oil shale and tar sands leasing on public lands which was issued by the Interior Department this month and is currently being reviewed by EPA. In 2005, BLM's Draft RMP/EIS indicated a high to moderate potential for oil shale development in the next 15 years anticipation one or two small-scaled pilot projects. At that time, Oiltch Corporation was running a pilot-scale oil shale project near Bonanza, Utah and Shell Oiled Company was conducting a pilot-scale oil shale operation near Meeker, Colorado. We suggested in 2005 that the potential impacts to regional air quality from these projects be evaluated in the Final EIS bases on the emissions information available from these two pilot-scale operations. Since that time, several additional proposed oil shale and tar sand pilot projects have been proposed on state-owed school trust lands within the Vernal Planning area, including two surface retorting	<p>Comment noted. See section 4.11.1, 4.13.1.3, 4.13.1.5 and 4.16.2.2.</p> <p>This is a programmatic document providing analysis for the next 10-15 years, the life of the document.</p> <p>See section 2.4.13.2 last sentence "BLM would adhere to criteria outlined in the Colorado River Salinity Control Act."</p> <p>In BLM NEPA air quality analyses, BLM includes reasonably foreseeable development (RFD) on BLM land, and reasonably foreseeable future actions (RFFA) on lands outside the project area. It is not possible at this point to know whether any of the proposed projects mentioned by EPA (save the Oil Shale Exploration Company project, assuming this was properly included in prior AQ assessments) are RFD or RFFA sources. We do not include any and every "proposed" project until reliable (non-hypothetical) source characteristics and locations are</p>	

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			<p>proposals for oil shale recovery: 1)Red Leaf Resources located north of Bonanza, and, 2)Millennium Synfuels, LLC (formerly Oiltech Corp.) located approximately five miles east of Bonanza. In addition, there is a proposed tar sands recovery pilot project under consideration by Nevtah/Black Sands Holding Company near the community of White Rocks north of Roosevelt. (We note that the proposed pilot project by the Oil Shale Exploration Company at the former U-a Tract has been the subject of two EAs by BLM and as a result the air emissions from this project have been included in BLM's air quality analysis for the basin.) EPA will need to coordinate the air quality analysis of the direct and cumulative impacts of these additional oil shale and tar sand projects with the Vernal Field Office. We also suggest the BLM consider including these additional oil shale and tar sands projects in you ongoing air quality analysis currently under development.</p>	<p>available to include in emissions inventories or air quality models, as appropriate.</p> <p>EPA does not coordinate BLM NEPA air quality analyses. BLM is ultimately responsible for the analysis and we make all final decisions regarding the analysis in consultation and coordination with EPA and other sister agencies.</p>		
United States Environmental Protection Agency	6	4	ACE	<p>Alternative E is a new alternative similar to Alternative C that was developed for the RMP Draft EIS which would add protective management prescriptions for 277,596 acres of non-WSA lands with wilderness characteristics in 25 areas. This would include closing these areas to mineral leasing and off-highway vehicles, excluding rights-of-way, and protecting undisturbed landscapes and opportunities for primitive and semi-primitive recreation opportunities. We believe BLM should implement these management prescriptions for some of the ACECs located within non-WSA lands with wilderness characteristics in order to enhance protection of native vegetation, cultural, paleontological, and historic resources, scenic and ecological values, wildlife, and especially the rare and important riparian and stream-side resources in some of these ACECs. Specifically, this level of protection is needed in areas</p>	<p>Comment noted.</p>	

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			<p>where significant environmental impacts are occurring or are likely to occur from oil and gas development and off-highway vehicle use. These areas include the lower Nine Mile Canyon and Desolation Canyon (which would complement adjacent protection for the upper Nine Mile Canyon ACEC currently under consideration in the Price RMP Supplemental Draft EIS), Lower Bitter Creek and Bitter Creek, PR Spring, Four Mile Wash, Middle and Lower Green River, White River, and the Periette wetlands ACECs. Non-WSAs with wilderness characteristics along the southern edge of the Booe Cliffs (Rat Hole, Cripple Cowboy, Sweet Water, Hideout Canyon, Mexico Point, and Wolf Point) deserve particular consideration for additional protection since these ecosystems are under represented in WSAs and such management would be consistent with similar protections afforded by the Uintah and Ouray Nation within their adjacent Hill Creek extension area.</p>			
United States Environmental Protection Agency	6	5	SD	<p>We also believe these management prescriptions can complement protection of 216 miles of suitable river segments for possible wild, scenic, and recreational designation. These segments include the Whit, Green, Bitter Creek, Argyle Creek, and Nine Mile Creek. These Prescriptions are particularly important for restoring and protecting valuable riparian systems and wetlands along these segments that are: 1) not in proper functioning condition for range management; or are 2) particularly vulnerable to adverse impacts due to steeper slopes that are subject to excessive erosion or contain saline soils. The additional protections that would be afforded by implementing Alternative E would not substantially reduce mineral development opportunities since just one percent less acreage would be available for mineral leasing compared to Alternative D - the No Action Alternative. (SDEIS at page 4-10.)</p>	<p>Comment noted. The BLM considered a wide range of alternatives within the Vernal Draft RMP/Supplement. The BLM is not mandated to substantially reduce any major resource use as part of the land use planning process. However, when comparing alternative B which allows for the most mineral development to alternative E which is the most restrictive to mineral development, there is a substantial difference. Specifically please see Table 2.1 on page S-3 of the Vernal Draft RMP. Alternative B would close 52,550 acres, restrict with no surface occupancy 42,053 acres, and use controlled surface use on 706,281 acres, whereas Alternative E on table S-1, page S-2 within the supplement would Close 367,037 acres, restrict with NSO 47,629 acres, and use controlled surface use on 608,570 acres.</p>	

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					Thus, alternative D is not the alternative that is least restrictive to mineral use for comparison. Alternative B should be referenced as the least restrictive alternative.	
United States Environmental Protection Agency	6	6	AQ	Quantitative estimates of future conditions, or relative differences in qualitative estimates of those conditions showing change over time would be helpful to understand the impacts to air quality, wildlife habitats, vegetation, water quality, and other environmental resources'. Because fine particulate matter in the Vernal area could approach the or exceed the National Ambient Air Quality Standards for particulate matter smaller than 2.5 microns (PM2.5), additional information on fine particular matter conditions should be provided in the final RMP/EIS.	Speculation of this sort by EPA about source-receptor relationships "could approach the [sic] or exceed the National Ambient Air Quality Standards for particulate matter smaller than 2.5 microns (PM2.5)" is not a basis for conducting a quantitative (presumably modeling) analysis. BLM takes into account the available and necessary information to decide what level of air quality analysis is appropriate on a project-by-project basis, because each project is unique.	
United States Environmental Protection Agency	6	7	GRA	Livestock and Grazing Management: Information presented in the Draft EIS indicates that 60 of the 160 grazing allotments in the Vernal Planning Area are rated in the "I" category meaning there is a need to 'improve' the existing resource condition. These 60 grazing units have been identified with ecological conditions that are unsatisfactory and which may regress further. The relationship, if any, between these degraded allotments and stream conditions was not provided in the Draft EIS. Despite the need to improve nearly 40% of the grazing allotments, the Draft EIS fails to present a range of alternatives for livestock management to consider means to address this declining resource trend. These range conditions result from historic grazing practices, but it is not clear how these historic practices relate to reported use, permitted uses, or increasing permitted grazing use as proposed in the Draft EIS. The Draft EIS does not establish how the BLM proposes to respond to	Comment noted. Section 2.3.2.4, Fire, Drought, and Natural Disasters of the DRMP addresses management actions to be taken with regards to drought on BLM lands within the Vernal Field Office. After coordination with affected permittees temporary reductions in authorized use would be used to mitigate grazing impacts during drought conditions on an allotment specific basis. This direction is in conformance with BLM policy as stated in Washington Office IM 2003-074 and BLM regulations at 43 CFR 4110.3-2. The severity of drought is affected by many factors including the amount and timing of precipitation, temperatures and conditions of the rangeland. Precipitation events can also be very sporadic so production on one allotment or even within one allotment may be drastically different than on an adjacent allotment or between areas within an allotment. Precipitation levels and drought indices	

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				<p>livestock management should there be continued long-term drought. We suggest that the Final EIS provide a range of alternative livestock management practices and specific information to the public and decision maker that establishes how current rates of livestock use relates to reported use and to proposed permitted uses. An adequate range of alternatives that presents a means to prevent permanent impairment of range conditions would improve the Final EIS by depicting choices and consequences of the means to improve range conditions.</p>	<p>can be used to help identify broad areas that may be affected by drought but may not be accurate at the allotment level. For these reason drought restrictions on a planning wide basis would not be appropriate and would not comply with BLM direction. BLM regulations, (43 CFR 4110.3-2, Decreasing permitted use) provide for the suspension of use on a temporary basis, as needed, to protect the rangeland resources from grazing impacts during drought periods. Allotment closures are also provided for in both the regulations and the DRMP when soil, vegetation or other resources on the public lands require immediate protection due to drought. Coordination and consultation with the affected permittees is also a requirement of the regulations and can only be accomplished on an allotment specific basis. As required by NEPA, the RMP/EIS analyzed a range of alternatives and management actions to ensure that resources are protected and to ensure that a balanced approach was recommended that allows opportunities for legitimate land uses.</p>	
United States Environmental Protection Agency	6	8	AQ	<p>(The Draft EIS indicates that there is high to moderate potential for oil shale development in the next 15 years anticipating one or two small-scale pilot projects. Currently Oiltech Corporation is running a pilot-scale oil shale project near Bonanza, Utah and Shell Oil Company is conducting a pilot-scale oil shale operation near Meeker, Colorado. Since BLM is provided the opportunity to lease additional public lands for the development of oil shale at this time, we request that the potential impacts to regional air quality from these projects be identified in</p>	<p>See response to 6-3. An engineering and air quality review would be needed to determine whether the projects are reasonably foreseeable or if the existing projects for an adequate basis for estimating emissions from the proposed project, assuming they are reasonably foreseeable..</p>	

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				the Final EIS based on the emissions information now available from these two pilot scale operations.		
United States Environmental Protection Agency	6	9	AQ	<p>Cumulative Air Quality Impacts of Reasonably Foreseeable Future Actions: Significant cumulative visibility Impairment associated with mineral and energy development was identified. The Draft EIS describes the inventory sources and BLM sources and the Technical Support Document for Air Quality provides more information on how these sources were modeled. Background concentrations were added to the emissions associated with reasonably foreseeable development and the impacts of Alternative B to estimate potential cumulative air quality impacts. The Draft EIS concludes that the existing emissions, when combined with emissions from Reasonably Foreseeable Future Actions (RFFA) would cause only negligible air quality impacts, however, these findings are based on an air quality analysis that appears to be incomplete. The air quality analysis may provide a low estimate of the potential emissions of nitrogen oxides (NOx) from compressor engines located within the "Indian Country" that comprises a large portion of the Vernal Planning Area. We suggest that actual emissions rates from compressors stations within Indian Country be assessed and used to describe a range of potential emissions rates of NOx from these sources.</p>	<p>Table 5-66 from the AQ TSD for Vernal/Glenwood is presented at the end of this table. The table shows that there are up to 1 day of cumulative potential visibility impacts from all sources at the sensitive receptor areas listed (Any area not listed in this table did not have significant impacts in the screening analysis). Direct project (BLM) sources showed no impact at any of these receptors.</p> <p>BLM NOC air quality staff does not believe that 1 day with a > 1.0dv impact is significant given inherent uncertainties and the conservatism built into the modeling. The regional haze rules state that all class I areas are to have no man-made impact on visibility by the year 2064, not sooner. There is no legal basis for EPA demanding a threshold of zero days of visibility impact from the project and alternatives.</p> <p>Note that BLM use a threshold for potential visibility impacts is ~10% change in extinction (1.0 dv). The results vs. the 0.5 dv are presented only as a courtesy to other FLMs that use the 0.5 dv threshold in their PSD permit analyses and are included in the TSD only.</p>	
United States Environmental Protection Agency	6	10	AQ	<p>we also suggest that several additional reasonably foreseeable future sources of air emissions in the West Tavaputs Plateau RFD area be included in any revised air quality modeling effort to be provided for future project analysis. For A example, in 2004, Petroglyph Oil and Gas Company</p>	<p>There is no plan for any further modeling for the Vernal RMP EIS. Some of these sources may be included in the upcoming Uinta Basin AQ Study.</p>	

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			<p>proposed 8008 steam injection wells on 2.5 acre spacing in the Antelope Field. This proposed plan for oil development using steam recovery was submitted to the Bureau of Indian Affairs in 2004 and it includes the estimated emissions of certain air pollutants.</p> <p>This oil and gas development project could be reasonably foreseeable if the 288-well pilot project currently under development proves to be economically and technically feasible. Further, in 2001, the Northern Ute Tribe leased 83,000 acres to the Dominion Exploration and Production, Inc. on lands known as Naval Oil Shale Reserve No.2. This land is adjacent to the Green River and is surrounded by lands currently producing gas reserves from the Uinta Basin geologic section. It is reasonably foreseeable that these lands will be developed for gas production in the near future. We also note that gas pipeline capacity will soon increase in the region. See for example the proposed Entrega Pipeline Project which was the subject of an EIS in March 2005 by the Federal Energy Regulatory Commission. This pipeline project is a 327-mile long natural gas pipeline from Meeker, Colorado north to Wamsutter, Wyoming and east long I-80 to the Cheyenne Hub. The 36-inch and 42-inch diameter pipeline will provide increased capacity for gas transportation to producers in the Uinta Basin of Utah.</p>		
United States Environmental Protection Agency	6	11	AA	<p>Category 2 (Insufficient Information) means EPA finds that the draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment. EPA requests that the identified additional information, data, analyses, or discussion be included in the Final EIS or in another</p>	<p>There is sufficient information on the landscape level to make a reasoned choice among the alternatives in the RMP/EIS. The RMP/EIS uses the best available information to fully assess the environmental consequences associated with each alternative and fully discloses those impacts. Subsequent project- or</p>

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				future NEP A document regarding major energy development within the planning area.	site-specific NEPA document will be prepared using the best available information pertinent to the level of analysis and scope and nature of the decision.	
United States Environmental Protection Agency	6	12	AQ	EPA supports BLM revising the air quality model as part of this Draft EIS. EPA requests that RFFA be expanded to include proposed major energy developments on the Uintah and Ouray Reservation. We suggest that those lands and other developments be evaluated as part of the next NEPA compliance document prepared for major energy development by BLM within the Vernal Planning Area. EPA requests that BLM work closely with us to assure that a revised air quality analysis is performed to evaluate cumulative impacts from all of the RFFA projects that could adversely affect regional air quality.	See previous response to 6-10.	
United States Environmental Protection Agency	6	13	AQ	Nitrogen oxide emission rates in Indian Country The near field modeling analyses for the Draft EIS used the NOx emission rates of either 1.5 gram per horsepower-hour (g/hp-hr) or 0.7 g/hp-hr for Utah-permitted new compressor engines. However, many compressor engines associated with RFFA may be located on Indian country lands within the exterior boundaries of the Uintah and Ouray Indian Reservation. Such sources will be subject to the requirements of - EPA as the permitting aJ1dre regulatory authority. It is likely that many of the new compressor engines added as a RFFA within "Indian Country" will be considered minor sources under the Clean Air Act. Although EPA is considering a rulemaking to allow air permits for minor	The use of the 0.7 g/hp-hr figure was requested by the Utah Division of Air Quality (UDAQ).	

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				<p>sources in Indian Country, it is not clear at this time how many new compressor engines would be required to obtain an air quality permit. If no permit is required, the assumption of restricting NOx remission limits within the range assumed for the air quality analysis cannot be assured. We suggest that BLM assisted by EPA evaluate NOx emission rates of recently installed compressor engines in Indian Country on the Uintah and Ouray Reservation in order to establish the range of emissions to be used for RFFA within Indian Country. Information available to EPA indicates that field compressor engines on the Uintah and Ouray Reservation emit NOx in the range of 2 to 28 g/hp-hr. This information would then be used in a revised air quality modeling effort for any future NEP A analysis of large-scale energy projects within the Vernal Planning Area.</p>		
United States Environmental Protection Agency	6	14	AQ	<p>Visibility. Section 4.2.2.6.7.4 explains that the screening analysis for visibility showed no reduction in visibility at Class I areas due to BLM sources alone. The Technical Support Document is consistent with this statement. Table 4.2.7 shows cumulative visibility impacts and combines results of the screening analysis with results of a refined analysis. BLM conducted a refined analysis in cases where the screening analysis showed impacts. An error in the text accompanying table 4.2.7 refers to "the screening visibility analysis" and could lead the reader to believe that a screening analysis resulted in no perceptible visibility impacts. Table 5-65 of the Technical Support Document reveals the results of the screening</p>	<p>Table 4.2.7 and the text accompanying will be changed to reflect the appropriate analysis.</p> <p>Visibility modeling for Class II areas is done as a courtesy to the responsible FLM. Class II areas have no visibility protect under State or Federal Law.</p>	X

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				<p>analysis of cumulative visibility impacts. The analysis showed potential days of visibility reductions greater than 1.0 deceives (dv) at the Arches National Park Class I area (one day) and at the Class II area of Dinosaur National Monument (three days). (Additional days of reduced visibility were modeled for sources in the Glenwood Springs planning area.) One of the three days of cumulative visibility impact greater than 1.0 dv at Dinosaur National Monument resulted only when emissions from BLM sources were added to those of the inventory sources. In other words, the potential impact of the BLM sources tipped the balance and caused potential cumulative impacts to exceed 1.0 dv. Please revise the text accompanying table 4.2.7 to show that the screening analysis showed potential visibility impacts that disappeared in the refined analysis.</p>		
United States Environmental Protection Agency	6	15	AQ	<p>Ozone. The DEIS mentions ozone in the context of prescribed burning. Table 3.2.3 lists the criteria pollutants but excludes ozone. (While the DEIS does not discuss lead, sources in the planning area are likely to emit little if any lead.) Current development in the planning area includes sources of volatile organic compounds (VOC's) and oxides of nitrogen (NOx), which are ozone precursors. The model used by BLM for the air quality analysis (i.e., CALPUFF) was not suitable for estimating ozone impacts. However, we recommend that the FEIS address ozone and specify that project-level NEP A compliance documents will estimate potential ozone impacts.</p>	<p>The protocol for the air quality modeling was prepared in consultation with EPA R8, NPS, FS, FWS and the State air quality agencies from Utah and Colorado. When the CDPHE-AQD submitted comments on the protocol, they discussed ozone and said the following in their comments re: ozone modeling: "This section states that ozone will not be modeled during this project. The Air Pollution Control Division agrees that ozone modeling is outside the scope of this project." (Chick 2002)</p>	

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United States Environmental Protection Agency	6	16	AQ	Prescribed Fire. We appreciated hat the Draft EIS addressed the air quality effects of prescribed fire. We suggest that the FEIS indicate that project-level NEPA documents will be needed for prescribed fire treatments which can address EPA's Interim Air Quality Policy on Wildland and Prescribed Fires. The FEIS should also further analyze the need that project-level NEPA documents for prescribed fire address alternatives that meet the purpose but also minimize smoke and its impact, such as mechanical reduction of fuel build-up and for pretreatment before burning, limiting the amount burned at anyone time, and implementing hazard awareness and mitigation programs for the public.	Through land use planning, BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple-use concept, the BLM does not necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. Site-specific analyses of project-level work, implementation plans, or integrated activity plans are conducted after the Land Use Plan is approved. Appropriate standards and guidelines are utilized in completion of the site-specific NEPA documents.	
United States Environmental Protection Agency	6	17	CCR	Vernal Planning Area includes the Uintah and Ouray Reservation. It is not clear how the Northern Ute Tribe has been involved in the preparation of the document. We suggest particular focus be applied to the reasonably foreseeable future actions, particularly large-scale energy development by the Northern Ute Tribe as noted in our cover letter.	Section 5.3 in the Draft RMP as well as Section 5.2.1 of the PRMP documents the specific consultation and coordination efforts with Native American Tribes undertaken by the BLM throughout the entire process while developing the PRMP/EIS.	
United States Environmental Protection Agency	6	18	PRP	Section 1.4.6. Step 9: Monitoring and Evaluation. page 1-3: The document notes that monitoring and evaluation of the revised RMP will follow a schedule documented through plan supplements, amendments, or addenda. BLM needs to provide in the Final EIS the proposed schedule for the monitoring and evaluation process. For example, the use of thresholds values of natural resource conditions could be considered so that if a threshold is reached, this would trigger a change in management or require remedial actions. For ambient air and water quality monitoring especially that across state lines and within "Indian Country" EPA could provide technical assistance.	Comment noted.	

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United States Environmental Protection Agency	6	19	WC	Section 1.4 Planning Process - Wilderness' Characteristics, page 1-8: This section should list the six areas that have been established as wilderness study areas and reference Figure 20. This figure should also be referenced in Chapter 4, 4.14.3, page 4-125.]	<p>Section 1.4 Planning Process – Wilderness' Characteristics, page 1-8; refers to the 2005 Draft RMP/EIS. Table 3.14.3 Wilderness Study Areas in Section 3.14.4.2 – Planning Area Profile will be referenced in Section 1.4 instead of listing the six WSA areas.</p> <p>Figure 20 refers to Non WSA Lands with or likely to have wilderness characteristics. WSAs are found in Figures 22 through 24, Special Designations.</p>	
United States Environmental Protection Agency	6	20	CCR	Section 1.4.4, Steps 5 -7: RMP/ETS: The second to the last sentence states that the "RMP will be reviewed by the Utah State Governor for consistency with state land use plans." The RMP should also be reviewed by the Northern Ute Tribe to determine consistency with tribal land use plans.	<p>The Northern Ute Tribe was provided an opportunity to review and comment on the SEIS during a 90-day comment period ending on January 3, 2008. In addition, the Northern Ute Tribe was provided an opportunity to review and comment on the PRMP/EIS during a 3-week comment period ending on May 16, 2008.</p> <p>In accordance with the National Historic Preservation Act, Executive Order 13175, other federal legislation and BLM policy, the BLM Vernal Field Office (VFO) will continue to consult with Native American Tribes regarding any undertaking of the VFO that has the potential to affect resources that are important to the Tribes. This consultation affords the Tribes the opportunity to identify for the BLM any concerns and suggest any additional identification or evaluation measured deemed appropriate to the undertaking. In addition BLM will comply with Executive Order 13007, Indian sacred sites, consultation and also comply with manuals 81-20 and H-8120-1.</p>	
United States Environmental Protection Agency	6	21	CCR	Section 1.5, Relationship to Other Programs, page 1-13: This section should also reference Northern Ute Tribal plans and policies.	The Ute Tribe has worked as a Cooperating Agency throughout this planning process and has been intimately involved with the land use planning process. The Ute Tribe assisted Field Office	

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					specialists in the analysis of sections of the DEIS and has provided social and economic expertise and advice. The BLM has consulted with the Ute Tribe concerning planning issues; particularly, the leasing of split estate lands such as the Hill Creek Extension. The administration of Ute Tribe surface is beyond the scope of this document.	
United States Environmental Protection Agency	6	22	CCR	The document notes that "wherever possible, BLM decisions old be consistent with or complimentary to the management action arising from a number of programs, plans, and policies. However, the Environmental Assessments and Findings of No Significant Impact completed by the Bureau of Indian Affairs for large-scale oil and gas development within the Uintah and Ouray Reservation have not been specifically included in this list.	The BLM only lists those oil and gas developments where it has jurisdiction. Including EISs and FONSI's completed by the BIA or any other agency is beyond the scope of this planning document.	
United States Environmental Protection Agency	6	23	FIR	Section 2.3.2. Climate Conditions Fire Drought and Natural Disasters pages 2-3: BLM notes that during periods of prolonged dryness or drought, on a site-specific basis, various management prescriptions may be invoked. For example, OHV closures may be implemented to minimize injury to the rangeland or to minimize the risk of spark-ignite fires. It is not clear whether BLM will consider closure during drought for other surface disturbing activities. We recommend that the field-based criteria be selected to establish prolonged drought using existing fire-risk methodologies. And that BLM should consider mitigation, including closures, of public lands to the list of surface disturbing activities.	The intent of this section was for BLM to develop Appropriate Management Response to deal with Fire, Drought, and Natural Disasters. Field based criteria would be an integral part of each site specific AMR. Closure of public lands would be an option of each AMR.	
United States Environmental Protection Agency	6	24	CUL	Section 2.4.3.2, Cultural Resources -Action Common to All- page 2-7: This section should also include consultation with the Tribal Historical Preservation Office	The Area of Potential Effect for any project is determined in consultation with the appropriate SHPO/THPO in accordance with 36 CFR 800.4(a)	

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Agency				(THPO).	(1). This occurred upon initiation of the Section 106 consultation process for this RMP.	
United States Environmental Protection Agency	6	25	OTH	Section 2.3.2.6. Surface Stipulation Applicable to All Surface-Disturbing Activities: We believe there is a typographical error, and this should be Appendix K, not Appendix L. Appendix L contains information related to the Vernal Resource Area grazing allotments.	The error has been corrected in the Proposed RMP/Final EIS.	X
United States Environmental Protection Agency	6	26	GRA	Section 2.4.7.4, Grazing in River Corridors, page 2-19: The document states, "If grazing is causing resource degradation and all other options have been exhausted, temporarily close those riparian areas that do not satisfactorily respond to changes in management". BLM could identify the time frame the degradation will be allowed to continue and the expected response time of the degraded habitat will continue until action is taken.	The RMP adopts the Utah Rangeland Health Standards under all alternatives. These standards include specific management goals related to riparian. The BLM, by adhering to these Standards, would be managing to meet these riparian goals. See Table 2.3, page 2-53 (Riparian) of the DEIS for information on grazing in riparian zones.	
United States Environmental Protection Agency	6	27	MOG	Section 2.4.8.2.1, Minerals and Energy Resources, Actions Common to All, Oil and Gas page 2 -20: The first sentence is, "Mitigation of oil and gas impacts developed under the plan and applied to leases in the form of stipulations would adhere to the BLM's standard format". These stipulations regard the minimum necessary to protect resources and also include BLM criteria for waiver or modification if warranted. The Final EIS could identify under what conditions and consequences in the past have received BLM waiver from these lease stipulations.	Comment noted. A waiver may be approved if the record shows that circumstances or relative resource values have changed or that the lessee/operator can demonstrate that operations can be conducted without causing unacceptable impacts. Appendix K discloses whether or not a waiver to a lease stipulation would be considered, and if so, under what conditions.	
United States Environmental Protection Agency	6	28	MLO	Section 2.4.8.2.2. Locatable Minerals. page 2-20: The document notes that a plan of operation would need to be filed for operations on any lands or water known to contain federally proposed or listed threatened or endangered species or their proposed or designated critical habitat. BLM should specify whether this approval process solicits comments from the public or other	Any surface disturbing action taking place on BLM administered lands would have to comply with the requirements of NEPA. A Plan of Operations would be included as part of the NEPA process for any mining operation of locatable materials.	

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				agencies.		
United States Environmental Protection Agency	6	29	REC	Section 2.4.11.2 Recreation- Actions Common to All page 2-23: A map should be referenced which indicates all of the sites listed in this section.	<p>OHV sites are addressed in figures 25-28 in the Draft RMP and on figure 28e within the supplement.</p> <p>Special Designations are addressed in figures 22-24 in the Draft RMP. Alternative E would match Alternative E for special designations. SRMAs are found within the above mentioned Special Designation maps.</p> <p>Additional recreation areas would be located within Extensive recreation areas and included dispersed campsites which is evolving and currently not mapped. As new recreation sites are proposed and added to the Vernal Planning area through the ROD allowances, they will be periodically updated within mapping programs (i.e. GIS), the BLM website, and also on paper maps (within feasibility to be determined by management).</p>	
United States Environmental Protection Agency	6	30	RIP	2.4.11.2.1 -Rangeland Health Standard 2 -page 2-24 - Any discharges of fill to streams and wetlands must be in conformance with Section 404 of the Clean Water Act.	See 2.3 MANAGEMENT COMMON TO ALL ALTERNATIVES, 2.3.1 Goals and Objectives Common to All Alternatives, 4." BLM would apply and comply with water quality standards established by the State of Utah (R.317-2) and the Federal Clean Water and Safe Drinking Water Acts"	
United States Environmental Protection Agency	6	31	REC	Section 2.4.11.2.1, Recreation, BLM Recreation Guidelines, page 2-24: BLM could consider the development of recreation guidelines to help achieve and maintain healthy public lands as defined by the Rangeland Health Standards.	Comment noted.	
United States Environmental Protection Agency	6	32	RIP	Section 2.4.12.2 -Riparian -Actions Common to All. page 2-26: This section should reference the need to obtain approval from the U.S. Army Corps of Engineers for stream crossings of pipelines and roads under Section	See 2.3 MANAGEMENT COMMON TO ALL ALTERNATIVES, 2.3.1 Goals and Objectives Common to All Alternatives, 4." BLM would apply and comply with water quality standards established by	

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				404 of the Clean Water Act.	the State of Utah (R.317-2) and the Federal Clean Water and Safe Drinking Water Acts”	
United States Environmental Protection Agency	6	33	WAT	Section 2.4.13.1. Soil and Water Resources, Goals and Objectives, page 2-27: Second sentence should reference compliance with Tribal Water Quality Standards when they are developed.	This planning effort is for BLM administered lands and the Ute Tribe is a cooperating agency with the BLM for this effort. BLM is unable to reference a document or standards that are in draft or yet to be developed. BM will coordinate with the Ute Tribe for future coordination needs.	
United States Environmental Protection Agency	6	34	WAT	Section 2.4.13.2. Actions Common to All -Page 2-28: This section should included recognition of the partnership and coordination with the Northern Ute Tribe regarding water quality.	Management Common to the Proposed RMP and All Alternatives in Section 2.1.17-Soil and Water Resources, recognizes the coordination and collaborative efforts that need to occur between the cooperating agencies for the RMP and other affected parties.	
United States Environmental Protection Agency	6	35	WL	Section 2.4.18.2.1. Raptors, page 2-37: This indicates that BLM will "pursue a partnership between industries, local governments, USFWS, UDWR, and others to establish a raptor management fund to be utilized for raptor population monitoring and habitat enhancement". We recommend that BLM include the Forest Service and the Northern Ute Tribe in this effort.	The BLM will work with UDWR, USFWS, and others to ensure that plans and agreements are updated as necessary to reflect the latest scientific data.	
United States Environmental Protection Agency	6	36	SOC	Table 2.5, Summary of Impacts for Environmental Justice, Page 2-83: This section should also address impacts to individual tribal members. The adverse impacts to human health referenced in Alternative D need to be discussed in Alternatives A, B, and C.	<p>This table in the Proposed RMP/Final EIS, Table 2.2, has been modified to incorporate the potential environmental risks to this community.</p> <p>Wellfield development would not be in the immediate area of a Tribal community. A nearby community, however, is located approximately 10 miles to the north at the settlement of Ouray. Potential downsides to the residents of Ouray are the risks associated with nearby minerals development. These risks include increased truck traffic through the town, and wellfield</p>	X

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					effects such as flaring, dust, spills, well blowouts and impacts to water resources.	
United States Environmental Protection Agency	6	37	AQ	Section 3.2.2, Baseline Air Quality page 3-4: According to the first sentence of section 3.2.2 of the DEIS, the Vernal Planning Area is "designated as being in attainment" for the National Ambient Air Quality Standards. (Section 4.2 begins with a similar sentence.) The area technically is "unclassifiable" in the case of PM10 and "unclassifiable/attainment" for other pollutants (see 40 CFR Part 81). Please revise this portion of the DEIS. Also, please revise "air-born" to "airborne.")	This change has been made in the proposed RMP and final EIS.	X
United States Environmental Protection Agency	6	38	AQ	Section 3.2.4.2, Criteria for Background Concentrations, pages 3-4 through 3-8 The DEIS presents different data on existing air quality (Table 3.2.1) and background concentrations for modeling purposes (Table 3.2.6). The two tables present data on the same pollutants from different air monitoring stations. In the case of PM10, Table 3.2.1 gives an annual concentration of 3.3 ug/m3, while Table 3.2.6 gives an annual concentration of 10 ug/m3. Table 3.2.1 gives an annual NO2 concentration of 41 ug/m3 (0.022 ppm) and Table 3.2.6 gives an annual NO2 concentration of 10 ug/m3 (0.005 ppm). Please revise the Final EIS to clarify the reasons for using different sources of data.	The tables have changed to present a single set of background data in the proposed RMP and final EIS (see table 3.2.6).	X
United States Environmental Protection Agency	6	39	AQ	Section 3.2.4. Regional Air Emissions. Page 3.5 This section of the DEIS generally, describes the emissions inventory for the planning area. It covers point sources but does not mention such emissions as dust from construction activities and roadways, which were included in the modeling effort according to the Air Quality Assessment Report. Please revise this section to address fugitive dust emissions	Fugitive dust emissions have been added to section 3.2.4.	X

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United States Environmental Protection Agency	6	40	AQ	Section 3.2.4.2, National Ambient Air Quality Standards, page 3-4 Please revise the reference to NAAQS as "absolute" upper limits. Alternative wording could be: "The National Ambient Air Quality Standards(NAAQS) and Utah Air Quality Standards are health-based criteria for the maximum acceptable concentrations o air pollutants at all locations to which the public has access.	BLM will retain the original language.	
United States Environmental Protection Agency	6	41	HAZ	Section 3.5.2.2. Hazardous Materials. Storage tanks. page 3-24: The UST program is administered by the EPA in "Indian Country".	Comment noted.	
United States Environmental Protection Agency	6	42	SOL	Section 3.13.3.2.2. Salinity, page 3-73: The document states that, "Impacts are to be minimized in areas with saline soils and revegetation of previously disturbed saline soils is to be promoted to the extent possible". Revegetation on very saline soils has not been proved to be successful. BLM should consider avoidance of surface disturbance in very saline soil conditions.	Comment noted.	
United States Environmental Protection Agency	6	43	WAT	Section 3.13.4, Water Resources - page 3-76 and 3-77: This section should describe the existing Public Water Supplies and permitted discharges under NPDES permit program.	Appendix E lists Public Water Reserve Withdrawals. The withdrawals would be protected by allowing no new surface-disturbing activities within active flood plains, public water reserves, or 100 meters of riparian areas unless there are no practical alternatives; impacts would be fully mitigated; or the action was designed to enhance the riparian resources.	
United States Environmental Protection Agency	6	44	SOC	Section 3.21. Environmental Justice page3 -137: This section should evaluate the alternatives with regard to their impacts on the heath and environmental effects on the 50Ute Tribe and Individual Native American populations. Also see comments under	See Response to Comment 006-36-SOC.	

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United States Environmental Protection Agency	6	45	VEG	<p>Chapter 4 for Environmental Justice.</p> <p>Section 3.16.2, Invasive Species and Noxious Weeds, pages 3-112 and 3-113: The document notes, "Of particular management concern are potential and existing populations of invasive species in the oil and gas fields that are receiving increased activity and interest". However, the document does not analyze the options and effectiveness of various invasive species.</p>	<p>Section XXX provides for vegetation treatment (specific to noxious weed control) under all alternatives using fire, mechanical, biological, or chemical means without specifying any individual management tool that would fall under one of these broad categories. This section also refers to management of vegetation in general terms without specifying individual techniques. This provides the BLM the opportunity to select from the entire range of available tools to undertaken vegetation treatments in the most appropriate way for the location and vegetation in question.</p> <p>The text has been edited to include the following clarification of vegetation treatments:</p> <p>"The VFO is aware of the seriousness of the noxious and invasive weed problem on lands within the planning area and will develop a VFO Weed Management Plan, advocating the use of a full spectrum of tools and methods as part of an integrated weed management program. It will address more specifically the Goals, SOPs to be enforced, Strategies and methods to be employed.</p> <p>The Programmatic Environmental Impact Statement for Vegetation Treatments Using Herbicides in 17 Western States has approved a few new herbicides for use on BLM lands, including Plateau®, which will provide the BLM opportunity to treat cheatgrass in some locations. The Record of Decision provides Mitigation Measures and Standard Operating Procedures to be employed by all vegetation</p>	X

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					<p>treatments, which will be addressed in the VFO Weed Management Plan.”</p> <p>The Programmatic Environmental Report for Vegetation Treatments on BLM Lands in 17 Western States addresses integrated vegetation management techniques addressing impacts and cumulative effects of a variety of vegetation treatments including mechanical treatments and chaining.</p>	
United States Environmental Protection Agency	6	46	AA	Section 4.1.1. Analytical Assumptions. page 4-2: The final bullet references the Hill Creek Extension of the reservation not being included in Alternative D. This appears to make comparison of the other alternatives to the No action or Alternative "D" inconsistent since they are not comparing the same area.	The final bullet of Section 4.1.1 Analytical Assumptions, Page 4-2, is referring to the fact that the Hill Creek Extension was not analyzed for oil and gas leasing in the Book Cliffs RMP/EIS (BCRMP/EIS) and therefore, is not open to for leasing under the “No Action” or “Current Management” Alternative, Alternative D. All alternatives are comparing the same area. The Hill Creek Extension under Alternative D. would be considered closed to leasing as having not been analyzed under the BCRMP/EIS.	
United States Environmental Protection Agency	6	47	AA	Table 4-1, Disturbance Assumptions, page 4-3: The basis assumption is that surface disturbance can be reclaimed within one year after completion of operations. Soil conditions, annual precipitation, and presence or absence of invasive plant species may lengthen reclamation time significantly.	<p>The sentence has been rewritten as follows:</p> <p>Interim reclamation will occur on 0.9 acres of surface disturbance within 1 year after completion of operations.</p>	X
United States Environmental Protection Agency	6	48	FIR	Section 4.2.2.5.1.1, Direct Effects of Prescribed Fire and Criteria Pollutants, Page 4-10: Please correct the typographical error in identifying carbon dioxide (CO ₂) as a criteria pollutant and include carbon monoxide (CO) as a criteria pollutant that wildland fires and prescribed fires emit.	The language in the cited section will be amended to list the correct criteria pollutant as carbon monoxide.	X
United States Environmental Protection Agency	6	49	GRA	Section 4.7.2.6 Summary of Livestock and Grazing Management, page 4-95: This section describes different levels of rangeland Improvement by Alternative. No	All management prescriptions proposed in the RMP are predicated on the basis that implementation would be accomplished as funding becomes available	

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Agency				information is provided on the level of funding for the proposed rangeland improvement nor any discussion of the option of fencing or reducing livestock allotments to provide for range improvement. Rotation and periodic "resting" of particularly areas should be considered. Further consideration should be given to providing upland watering areas to reduce the impact of grazing upon riparian areas.	to accomplish them.	
United States Environmental Protection Agency	6	50	GRA	Section 4.7.3 Mitigation Measures for Livestock and Grazing Management, page 4-95: The mitigation discussed relates to prescribed burning and not to livestock and grazing management. Do the priorities established for rangeland improvements focus on either the 'impaired' allotments or within watersheds listed as impaired for total dissolved solids under the State's CWA 303(d) list? What is the schedule for rangeland improvements under the preferred alternative?	There is no set schedule for Rangeland Improvements. Rangeland Improvements are determined on a site specific analysis and are predicated on funding.	
United States Environmental Protection Agency	6	51	RIP	Section 4.11. Riparian and Wetland Resources. page 4-161 : This section does not reference the baseline water quality and therefore does not adequately assess the impacts.	The section does properly assess the impacts to riparian and wetland resources Section 4.13 discusses Soil and Water Resources, as well as, careful planning of development to ensure impacts to soil and water are limited is important in protecting water quality and soil productivity. BLM will work towards compliance with water quality standards currently not in compliance at Pariette Draw Creek [TDS, selenium, and boron for 54.1 stream miles], Willow Creek, excluding Hill Creek, [TDS for 57.2 stream miles] and Nine Mile Creek [stream temperature on the VFO portion of 119.1 miles] where the BLM-administered lands make up a large percentage of the total acreage at these sub-basins. Efforts towards compliance can include limiting the concentrations of sediments. In general, TDS levels can often be proportional to sediment levels.	

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					BLM will apply and comply with water quality standards established by the state of Utah (R317.2) and the federal clean water and safe drinking water acts. Activities on BLM lands will fully support the designated beneficial uses described in the Utah Water Quality Standards (R317.2) for surface and groundwater.	
United States Environmental Protection Agency	6	52	VEG	Section 4.16 Vegetation, page 4-273: The use of chemical treatments should be limited near "Waters of the United States".	<p>Section XXX provides for vegetation treatment (specific to noxious weed control) under all alternatives using fire, mechanical, biological, or chemical means without specifying any individual management tool that would fall under one of these broad categories. This section also refers to management of vegetation in general terms without specifying individual techniques. This provides the BLM the opportunity to select from the entire range of available tools to undertaken vegetation treatments in the most appropriate way for the location and vegetation in question.</p> <p>The text has been edited to include the following clarification of vegetation treatments:</p> <p>"The VFO is aware of the seriousness of the noxious and invasive weed problem on lands within the planning area and will develop a VFO Weed Management Plan, advocating the use of a full spectrum of tools and methods as part of an integrated weed management program. It will address more specifically the Goals, SOPs to be enforced, Strategies and methods to be employed.</p> <p>The Programmatic Environmental Impact Statement for Vegetation Treatments Using Herbicides in 17</p>	X

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					<p>Western States has approved a few new herbicides for use on BLM lands, including Plateau®, which will provide the BLM opportunity to treat cheatgrass in some locations. The Record of Decision provides Mitigation Measures and Standard Operating Procedures to be employed by all vegetation treatments, which will be addressed in the VFO Weed Management Plan.”</p> <p>The Programmatic Environmental Report for Vegetation Treatments on BLM Lands in 17 Western States addresses integrated vegetation management techniques addressing impacts and cumulative effects of a variety of vegetation treatments including mechanical treatments and chaining.</p>	
United States Environmental Protection Agency	6	53	SOC	<p>Section 4.21.1.1. Environmental Justice: The baseline health of the environmental justice community is not addressed and therefore potential impacts are not assessed. Mitigation -page 4-344- Tribal consultation should ensure consultation with each band of the Ute Tribe. 4.21.1 and 4.21.2 -All alternatives -"The nearest community is located approximately 10 minutes to the north at the settlement of Ouray. Therefore, oil and gas development would not expose this community or the public-at-large to known health risks or environmental hazards. " This statement does not address any future development of present communities nor does it evaluate increased exposure to road traffic, including large rigs and trucks used in the oil field service industry, and the associated air pollution, flaring of wells, dust, spills, well blowouts, and impact to water resources.</p>	See Response to Comment 006-36-SOC.	
United States Environmental	6	54	AQ	<p>Air Quality -Technical Support Document (Air Quality Assessment Report). 1)</p>	<p>1. The footnote is correct as written. 2. If the TSD is revised for the final, this item will</p>	

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Protection Agency			National Park Service Reference. Please correct the date in the footnote to Table 3-24. 2) Increment Comparison Results. The value for three-hour SO2 concentrations under "GMA BLM Sources Only" (Glenwood Springs Management Area) in Table 5-12 differs by an order of magnitude from the corresponding values in Tables 5-13 through 5-16 and might be a typographical error. Please check this value and revise if necessary.	be checked and changed as necessary.		
United States Department of the Interior	7	1	ACE	Section 2.4.13 of the Draft RMP/EIS describes "Actions Common to All [Alternatives]." The management objectives for the Pariette Wetlands Area of Critical Environmental Concern (ACEC) are stated: "Manage to protect high value wetland and wildlife habitat resources" and "Manage as NSO and close to mineral material sales." We recommend in addition to managing the ACEC as NSO and closed to mineral material sales, that you incorporate the objectives from the 1991 RMP: 'Enhance and protect the wetlands community and associated habitat adjacent to Pariette and Castle Peak Washes, ensuring continued waterfowl production and no long-term deterioration of the water quality in ParietteW ash; reduce sedimentation to the Green River by stabilizing streambanks and water channels, while meeting the management objectives of the final recovery plans for the special status species associated with the area."	Comment Noted. The 1991 Diamond Mountain RMP is within Managements options as it is part of the "No Action" alternative in the Vernal Draft RMP under Alternative D.	
United States Department of the Interior	7	2	ACE	We further recommend developing a management plan for this ACEC that establishes a NSO conservation area designed specifically to provide long-term protection and recovery for special status plant species. The management objective for the ACEC should reflect the	Activity Plans are defined under the BLM Land Use Planning Handbook H-1601-1 as: "A type of implementation plan; an activity plan usually describes multiple projects and applies best	

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				importance of the area for the listed cactus species.	<p>management practices to meet land use plan objectives. Examples of activity plans include interdisciplinary management plans, habitat management plans, recreation area management plans, and allotment management plans.”</p> <p>This would include ACECs, SRMAs sensitive species habitat, etc.</p> <p>Furthermore, H-1601-1 further states:</p> <p>“Upon approval of the land use plan, subsequent implementation decisions are put into effect by developing implementation (activity-level or project-specific) plans. An activity-level plan typically describes multiple projects in detail that will lead to on-the-ground action. These plans traditionally focused on single resource programs (habitat management plans, allotment management plans, recreation management plans, etc.). However, activity-level plans are increasingly interdisciplinary and are focused on multiple resource program areas to reflect the shift to a more watershed-based or landscape-based approach to management. These types of plans are sometimes referred to as “integrated or interdisciplinary plans,” “coordinated resource management plans,” “landscape management plans,” or “ecosystem management plans.” A project-specific plan is typically prepared for an individual project or several related projects.”</p>	
United States Department of	7	3	ACE	The U.S. Fish and Wildlife Service will initiate a Recovery Plan review for the Uinta Basin hookless	See Response to Comment 007-2-ACE.	

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the Interior				<p>cactus in the fiscal year 2008. The goal of species recovery will likely only be met if habitat fragmentation within the relatively small range of this species can be minimized and/or mitigated effectively to ensure long-term species viability; existing habitat disturbance and fragmentation should be closely evaluated and remediated, The Recovery Plan will likely recommend measures designed to protect individual cacti as well as retain intact, undisturbed population centers within the ACEC. The Service has identified high cacti density areas within the ACEC and we recommend these areas have no new surface disturbance activities or increased surface usage. Existing surface disturbances should be remediated as soon as possible to restore habitat connectivity. The goal within these population centers is to maintain the habitat necessary for the continued survival and recovery of the species. We propose these population centers be set aside and officially designated as NSO within the Pariette ACEC in the new RMP. The Service is available to assist with the identification and protection of cacti population centers.</p>	<p>As stated in Chapter 2, Special Designations – Areas of Critical Environmental Concern, Management Common to all Action Alternatives, the Pariette Wetlands ACEC would be managed as NSO.</p>	
Sweetwater Country Conservation District	9	1	WC	<p>Alternative W's consideration of wilderness character protection for the non-WSAa located in Daggett County is fundamentally flawed. The areas do not meet the definition of wilderness as:...an area where the earth and its community of life are untrammled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of</p>	<p>The BLM's authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712).</p> <p>This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c)(2) (43 U.S.C. §1712(c)(2))) Further, FLPMA makes it clear that the term "multiple use" means that not every use</p>	

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			<p>man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its reservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.</p>	<p>is appropriate for every acre of public land, and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c))) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, amongst the various resources in a way that provides uses for current and future generations.</p> <p>The BLM has long acknowledged that FLPMA Section 603 (43 U.S.C. §1782) requiring a one-time wilderness review has expired. All current inventory of public lands is authorized by FLPMA Section 201 (43 U.S.C. §1711). In September 2006, the Utah District Court affirmed that the BLM retained authority to protect lands it determined to have wilderness characteristics in a manner substantially similar to the manner in which such lands are protected as WSAs.</p> <p>The BLM is aware that there are specific State laws relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, BLM is bound by Federal law. As a consequence, there may be inconsistencies that cannot be reconciled. The FLPMA requires that BLM's land use plans be consistent with State and local plans "to the extent practical" where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved. The BLM will identify these conflicts in the FEIS/PRMP so that the State and local governments have a complete understanding of the impacts of the PRMP on State</p>	

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				and local management options. Finally, the Utah v. Norton Settlement Agreement does not affect BLM's authority to manage public lands. This Agreement merely remedied confusion by distinguishing between wilderness study areas established under FLPMA §603 and those lands required to be managed under §603's non-impairment standard, and other lands that fall within the discretionary FLMPA §202 land management process.	
Sweetwater Country Conservation District	9	2	WC	The non-WSA areas lack of naturalness, contain permanent structures, such as roads, fences, reservoirs, and pipelines and cannot provide outstanding opportunities for solitude or primitive and unconfined types of recreation. The DEIS ignores man's imprint and the sights and sounds of development in order to conclude that these areas wilderness character.	A Vernal Field Office Interdisciplinary Team reviewed the Non-WSA areas including Human-made disturbances. Where it was determined that the Human-made disturbances were substantially unnoticeable and did not diminished the naturalness of the area, the areas were then determined to have wilderness characteristic.
Sweetwater Country Conservation District	9	3	WC	Even assuming these areas contain wilderness values, the DEIS fails to consider the fact that the intermingled land pattern will preclude BLM from effectively managing the non-WSA areas for the protection of alleged wilderness character. BLM has no authority to control or limit projects on state and private lands.	Please see Response to ID No. G-9-Comment 1.
Sweetwater Country Conservation District	9	4	WC	Further more, the Supplement does not conform to law because (1) BLM misinterprets decisions of the United States District Court for the District of Utah.	Please see Response to ID No. G-9-Comment 1.
Sweetwater Country Conservation District	9	5	WC	(2) establishes an unviable alternative which applies unlawful de facto WSA-type management prescriptions in violation of its 2003 Settlement Agreement with the State of Utah et al.	Please see Response to ID No. G-9-Comment 1. The management and level of protection of the wilderness characteristics on Non-WSA lands is discretionary and not bound by requirements of the Wilderness Act of 1964 or the WSA Interim Management Policy (IMP, H-8550-1; BLM 1995).

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				However, the BLM may manage the lands to protect and/or preserve some or all of those characteristics through the land use planning process. In addition, under the land use planning process, the BLM must consider a range of alternatives for the lands identified with wilderness characteristics. This gives the public the ability to fully compare the consequences of protecting or not protecting the wilderness characteristics on these Non-WSA lands.	
Sweetwater Country Conservation District	9	6	WC	(3) incorrectly states that livestock grazing is consistent with WSA-type management,	No lands are proposed to be managed as Wilderness or WSA in any alternative of the DRMP/DEIS. However, the impacts of protecting Non-WSA lands with wilderness characteristics is fully disclosed in Chapter 4 of the DRMP/DEIS. The FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c)).) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, amongst the various resources in a way that provides uses for current and future generations.
Sweetwater Country Conservation District	9	7	WC	(4) improperly eliminates grazing non-use without following established grazing procedures and standards.	The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used

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					<p>the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public. Public participation was essential in this process and full consideration was given to all potential alternatives identified.</p> <p>The BLM determined that a single alternative analyzing the protection of all Non-WSA lands with wilderness characteristics would best provide a reasoned choice among the alternatives. Although the other alternatives do not provide specific management prescriptions to protect Non-WSA, these alternatives analyze and disclose the impacts of the proposed resource management prescriptions, uses and actions on the Non-WSA lands with wilderness characteristics. This gives the public the ability to fully compare the consequences of protecting or not protecting the wilderness characteristics on these Non-WSA lands. If all alternatives contained comparable protections of the Non-WSA lands with wilderness characteristics, the alternatives would have substantially similar consequences and would not be significantly distinguishable.</p> <p>The BLM, in developing the PRMP/FEIS, can chose management actions from within the range of the alternatives presented in the DRMP/DEIS and create a management plan that is effective in addressing the current conditions in the planning area based on FLPMA's multiple-use mandate. The determination of season of use under Alternative E would be based on how grazing was adjudicated (judicially assigned) in the 1960s. The</p>	

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					number of livestock AUMs was determined by removing historic non-use AUMs (available AUMs not used over the past 10 years) from Alternative D – No Action for the life of the management plan.	
Sweetwater Country Conservation District	9	8	GRA	The Supplement does not adequately address the impacts to livestock operations and rangeland resources, if Alternative E were adopted. Most livestock permittees could not reach existing range improvements by motor vehicle in order to repair and maintain them. It would be difficult if not impossible to install new range improvement structures. BLM needs to identify the affected range improvements and potential impacts to livestock operations in Daggett County.	Table 2.3 Alternatives, Page 2-10 and 4.21.2.14.2 Alternative E. of the Supplement provides for maintenance and construction of Range Improvements.	
Sweetwater Country Conservation District	9	9	GRA	It is also well established that the construction of range improvements is not consistent with the preservation of alleged wilderness character. DEIS inaccurately assumes that the exact location of anticipated rangeland projects are presently unknown. Most operators have a backlog of planned but unfunded range improvements and vegetation treatments. The DEIS needs to disclose these reasonably foreseeable improvement projects and the cumulative effects in the Supplement and fully analyze Alternative E's adverse impacts on the environment and the livestock grazing permittees if future or planned range improvement projects were not allowed to proceed. As the draft RMP acknowledges, rangeland management, including livestock operations, must be able to show that they meet, maintain, or are making progress towards meeting the rangeland health standards. 43 C.F.R 4180.2. In most cases, range structures and vegetation projects are the best way to allow livestock grazing to continue and yet address resource issues. In addition to livestock grazing, rangeland resource conditions reflect many land issues,	The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which include changes in grazing, increases in grazing, and livestock developments, etc.	

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				including wildlife, wild horses, drought, recreation, and oil and gas development.		
Sweetwater Country Conservation District	9	10	GRA	Alternative E will have significant adverse environmental effects, because range improvements that benefit soil, water quality, vegetation, and wildlife habitat, will be prohibited or restricted. The EIS must fully disclose and analyze the cumulative effects on these resources where Alternative E would prohibit or restrict beneficial actions.	Table 2.3 Alternatives, Page 2-10 and 4.21.2.14.2 Alternative E of the SEIS provides for maintenance and construction of Range Improvements.	
Sweetwater Country Conservation District	9	11	GRA	The DEIS fails entirely by incorrectly assuming no impact on rangeland management. This misconception must be corrected and the DEIS must disclose acres of sage brush that might not be treated, riparian or meadows that may not improve, and pinon-juniper stands that will continue to encroach on sage brush. The DEIS must also discuss the impacts on the sage grouse populations that stand to otherwise benefit from vegetation improvement infestations. Classification as a non-WSA will preclude treatment, thus infesting adjacent healthy forests and increasing the risk of catastrophic fire.	Table 2.3 Alternatives, Page 2-10 of the SEIS provides for vegetation treatment.	
Sweetwater Country Conservation District	9	12	PRP	<p>Judge Kimball's NEPA Decision Misinterpreted: BLM incorrectly concludes that it had to prepare the RMP supplement to conform with the decision of the U.S. District Court for the District of Utah in SUWA v. Norton, 457 F. Supp,2d 1253, 1267 (D. Ut. 2006) (Kimball decision). Supplement at 1-2. Judge Kimball did not hold that BLM had an obligation to protect non-WSA areas identified by BLM as possessing alleged wilderness characteristics.</p> <p>Instead the court only held that National Environmental Policy Act (NEPA) documents supporting a sale of oil and gas leases failed to address the impact on alleged wilderness values. This issue was raised by SUWA in scoping and other public comments. NEPA requires an</p>	<p>The BLM's authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712).</p> <p>This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c)(2) (43 U.S.C. §1712(c)(2))) Further, FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land, and that the Secretary can "make the most judicious use of the</p>	

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			<p>agency to address every potentially significant issue. 40 C.F.R. 1402.14(f); 1506.3. The BLM NEPA documents assessing the impacts of selling oil and gas leases did not, in large part, because they pre-dated the 1999 wilderness inventory report. As to BLM's duty to prevent uninformed decision-making under NEPA, the court held that BLM cannot rely on "outdated planning documents to argue that {the 199 wilderness re-inventory findings and other significant new information pertaining to wilderness} values were previously identified or that the impacts of oil and gas development on them were previously evaluated." Id. At 1265.</p> <p>Thus, to the extent the Supplement undertakes the necessary analysis to determine what "the environmental effects of leasing and development will be to specific wilderness values," the DEIS complies with Judge Kimball's decision. Id. Nowhere, however, did the court suggest that BLM must under NEPA and FLPMA requires BLM to adopt protective WSA-type management for these areas. Rather, in doing so, Alternative E violates the terms of BLM's 2003 Settlement Agreement in State of Utah v. Norton, 2:96-CV-0870, 2006 WL 211798 (D. Utah 2006) (appeal pending), and is not a viable alternative. BLM may consider an alternative outside the agency's jurisdiction or for which legislation is required but must disclose that fact. 40 C.F.R. 1502.14©. As BLM acknowledge in 2003 and the Secretary of Interior in 1996, BLM's authority to create WSAs expired. If an agency lacks legal authority, it cannot pursue the unauthorized action under a new name.</p>	<p>land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c))) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, amongst the various resources in a way that provides uses for current and future generations.</p> <p>The BLM has long acknowledged that FLPMA Section 603 (43 U.S.C. §1782) requiring a one-time wilderness review has expired. All current inventory of public lands is authorized by FLPMA Section 201 (43 U.S.C. §1711). In September 2006, the Utah District Court affirmed that the BLM retained authority to protect lands it determined to have wilderness characteristics in a manner substantially similar to the manner in which such lands are protected as WSAs.</p> <p>The BLM is aware that there are specific State laws relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, BLM is bound by Federal law. As a consequence, there may be inconsistencies that cannot be reconciled. The FLPMA requires that BLM's land use plans be consistent with State and local plans "to the extent practical" where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved. The BLM will identify these conflicts in the FEIS/PRMP so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options.</p>	

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					<p>Finally, the Utah v. Norton Settlement Agreement does not affect BLM's authority to manage public lands. This Agreement merely remedied confusion by distinguishing between wilderness study areas established under FLPMA §603 and those lands required to be managed under §603's non-impairment standard, and other lands that fall within the discretionary FLMPA §202 land management process.</p>	
Sweetwater Country Conservation District	9	13	WC	<p>De Facto WAS-Type Management Prescription Are Unlawful and Alternative E Is Not a Viable Alternative under NEPA:</p> <p>As agreed to in the Settlement, BLM's wilderness review authority under 603 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C 1782©, has terminated, and as a result, BLM must "refrain from applying the IMP...to BLM lands other than 603 WSA's " and to "not manage or otherwise treat public lands, other than 603 WSAs...as WSAs or as wilderness pursuant to the {FLPMA} 202 process." 2003 Settlement, Stipulations 5 and 6. The district court upheld the Settlement after concluding that it "is consistent with the law and restores the proper interpretation of FLPMA." Norton, 2:96-CV-0870 at 24.</p> <p>While Alternative E does not use ":WSA" or "IMP" terms to define the protective management of the non-WSA lands, there is no question that Alternative E adopts the equivalent of WSA management. Under Alternative E, all non-WSA lands with alleged wilderness character would be managed without exception as follows: (1) VRM Class I, (2) Closed to OHV use, (3) Closed to oil and gas leasing, (4) Closed to solid mineral leasing, (5) Closed to disposal of mineral materials, (6) Proposed for</p>	<p>Please see Response to ID No. G-9-Comment 6.</p>	

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				<p>withdrawal from mineral entry, (7) Retain public lands in federal ownership, (8) Exclusion area for ROWs, (9) Closed to permitted commercial and personal-use wood cutting and seed collection, and (10) Closed to new road construction. Supplement at 2-21.</p> <p>Under the Settlement, not only may BLM not create 202 WSAs, it may not "treat public lands as WSAs": through its land use planning process. The foregoing management prescriptions impose IMP=level management and unlawfully "treat" the non-WSA lands with alleged wilderness characteristics as de facto WSAs. Alternative E, in fact, adds a catch-all management prescription which actually blatantly carries forward FLPMA 603's WSA non-impairment mandate: "No actions would be allowed that would degrade the wilderness characteristics of the non-WSA lands with wilderness characteristics." Id.</p> <p>Alternative E's protection of the non-WSA areas as if they were WSAs, therefore, violates the Settlement and the proper interpretation of FLPMA agreed to by BLM. As the Supreme Court has emphasized, NEPA does not obligate an agency to examine actions or effects of actions that are beyond the agency's authority. Dept. of Transport v. Public Citizen, 541 U.S. 752 (2004). Thus, the de facto WSA designation of these areas is not an alternative available to BLM and cannot be considered an option in BLM's land use planning. This does not preclude BLM from developing the Supplement to provide a detailed evaluation and analysis of the impacts of its management decisions on wilderness values. Any consideration, however, needs to also disclose that BLM cannot adopt the alternative without new legislation and without violating the Settlement Agreement.</p>		

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Sweetwater Country Conservation District	9	14	WC	<p>The Protection of Individual Characteristics Associated with the Concept of Wilderness Differs From the WSA Management of Alternative E:</p> <p>BLM claims it has authority to consider Alternative E based on a general provision in its Land Use Planning Handbook which directs BLM to "{Identify decisions to protect or preserve wilderness characteristics." H-1601-1. Supplemental at 1-2 (citing BLM Handbook H-1601). The direction is taken from an expired Instruction Memorandum 2003-275 which allegedly implemented the terms of the Settlement: "Wilderness characteristics are features associated with the concept of wilderness that may be considered in land use planning," and lands with wilderness characteristics "may be managed to protect and/or preserve some or all of those characteristics." This may include protecting certain lands in their natural condition and/or providing opportunities for solitude, or primitive unconfined types of recreation. IM 2003-275 at 2.</p> <p>This does not mean that BLM can use the land planning process to impose a wilderness land use allocation for these areas similar to the management of WSAs. The district court expressly affirmed the Settlement in this respect:</p> <p>It makes no sense that the same Congress that jealously recognized its sole authority to declare wilderness and that set up two major laws (the Wilderness Act and FLPMA) to accomplish a properly considered exercise of that authority, would have created within one general section (section 202) of FLPMA an open-ended authority on the part of the executive branch of government to create WSAs which, once created, result</p>	Please see Response to ID No. G-9-Comment 6.	

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			<p>in de facto wilderness.</p> <p>Norton, 2:96-CV-0870 at 29.</p> <p>Rather, throughout the land use planning process, BLM may consider all available information, including assessments of wilderness character, "to determine the mix of resource use and protection that best serves the FLPMA multiple use mandate." BLM IM 2003-274. Thus, for example, when appropriate, BLM may limit OHV use or establish mitigation measures, stipulations or conditions of use to be attached to permits, leases, and other authorizations to avoid or minimize impacts to individual values, such as scenery or primitive recreation. See BLM 2003-275 t 2, Attachment 1.</p>			
Sweetwater Country Conservation District	9	15	WC	<p>BLM Errs in is Identification of Non-WSA Lands with Alleged Wilderness Characteristics:</p> <p>The District incorporates by reference Daggett County's field notes and photographs submitted with it's comments. The District does not support the effort to classify areas that have roads, permanent structures like fences, livestock tanks, and reservoirs, as wilderness. Alternative E dilutes or expands the definition of wilderness to the point where the essential concept of an area untouched by man is lost. 16 U.S.C. 1131©. Alternative E also contradicts the District's Land & Resource Use Plan & Policy on wilderness. The District supports the 2003 settlement with the State of Utah, because the public land wilderness study process is completed and the issues are pending before Congress. The District does not support the establishment of new de facto wilderness areas when BLM has no authority to do so and when such management disrupts other land uses and important programs. See Sweetwater County</p>	<p>A Vernal Field Office Interdisciplinary Team reviewed the Non-WSA areas to determine if the areas identified met the wilderness criteria, Upon review, the ID-Team analyzed if past conditions have changed overtime and what Human-made disturbances were apparent. Where it was determined that the Human-made disturbances were substantially unnoticeable and did not diminished the naturalness of the area, the areas were then determined to have wilderness characteristics. Comment Noted.</p>	

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			<p>Conservation District Land & Resource Use Plan & Policy at 72-74.</p> <p>The Daggett County comments demonstrated that the non-WSA areas are not untouched by man but, in fact, have miles of roads and trails and numerous permanent structures, including fences, water developments, irrigation diversions and ditches, stock ponds and reservoirs, telephone and power lines, existing oil and gas wells, and old well locations. FERC recently approved the interstate Kanda pipeline that is visible from at least three non-WSA areas, as well as a phosphate pipeline and other natural gas pipelines. The region features gas storage and collection facility, which is visible 24 hours a day and emits odiferous smoke. None of these facilities are consistent with the definition of wilderness.</p> <p>The DEIS analyses of solitude in the wilderness characteristics worksheets also completely fail to take into account the Taylor Flats subdivision contiguous to the Lower Flaming Gorge non-WSA area, and the major recreation facilities nearby on the Green River. There are two campgrounds near the non-WSA lands that have toilet facilities, fire pits, and motorized traffic. There is also a interpretative recreation center that brings in traffic with related noise incompatible with solitude and primitive recreation. The DEIS only considers "minimal recreation facilities" as consistent with wilderness criteria. Supplement ar 2-10. The DEIS also does not address the light impacts from the Taylor Flats subdivision or the Town of Manila, the latter of which affect the Cold Spring Mountain and Mountain Home non-WSA areas. The Cold Spring Mountain non-WSA area even has an active airstrip. See BLM Cold Spring</p>		

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			<p>Mountain Wilderness Characteristics Review (2007). Both the residential and recreation activities bring motorized traffic and related noise that are incompatible with wilderness management.</p> <p>The DEIS fails to discuss the traffic related impacts on the alleged wilderness values as a result of US Highway 191, a major highway visible from the Mountain Home and Cold Spring Mountain non-WSA areas. There is also a proposed paved, two lane road over the top of the Mountain Home non-WSA area that BLM also failed to consider. Many of the non-WSA areas are leased for oil and gas activity (a valid existing right). The DEIS admits that exercise of the lease rights will cause direct loss of natural characteristics and reduce quality of the opportunities for solitude and primitive and unconfined recreation due to sights and sounds of oil and gas development. Supplement 4-174; BLM Mountain Home Wilderness Characteristics Review (2007) (the total area being affected is 64%). By BLM's own admission, therefore, the non-WSA areas cannot be managed in the future to preserve their alleged wilderness character. It is well recognized that operations conducted pursuant to a lease will impair the suitability of an area for preservation as wilderness. See Solicitor's Opinion, 86 I.D. 89, 114 (1976)</p> <p>In addition, neither the Supplement nor the wilderness characteristics review worksheets rationally explain how wilderness criteria is satisfied when the same non-WSA areas were rejected and dropped from further wilderness consideration by BLM in 1979. With regard to the Mountain Home inventory unit, BLM concluded that man's influence was noticeable in the north and south areas of the unit, and that the unit did not provide for</p>		

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			<p>outstanding opportunities for solitude or a primitive or unconfined type of recreation. Utah BLM Inventory Proposals, p. 104 (April 1979).</p> <p>With regard to Lower Flaming Gorge, formerly known as the Diamond Mountain Inventory Unit, BLM concluded that the area is broken and irregular in shape, bounded and intersected by privately-owned lands, and that man's impact is substantially noticeable in the northern part of the unit. Thus, the land form and the privately-owned flat-bottomed canyons that break up the unit restrict the opportunities for solitude and primitive or unconfined type of recreation. Id. This intermingled land pattern exists in all three non-WSA areas, and BLM simply could not effectively manage these areas to manage or preserve the alleged wilderness character. These areas also feature permanent structures related to ranching, such as irrigation facilities for the meadows, and fences.</p> <p>The record does not show that these developments and intrusions have disappeared. In most cases, there are more, rather than less, permanent structures and evidence of development. Instead BLM appears to have ignored the definition of wilderness when finding there was wilderness character. This conclusion is supported in the wilderness characteristics review worksheets which show that BLM did not correctly apply wilderness criteria to these non-WSA areas. BLM consistently looked to the existence of "opportunities" for solitude, and primitive and unconfined recreation, as opposed to outstanding opportunities for solitude, and primitive and unconfined recreation, as opposed to outstanding opportunities for solitude and outstanding opportunities for primitive and unconfined recreation. 16 U.S.C 1131©, BLM Handbook H1601-1 at App. C, p. 12; 2005</p>		

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				<p>DRMP/DEIS at GL-8.</p> <p>In 1996, when BLM first initiated the wilderness reinventory, there was no public involvement. This was also true for the 2001 internal review of the "new information" submitted by SUWA and UWC. BLM assured the U.S. Tenth Circuit Court of Appeals that if it later decided to consider revising land use plans to change the management of lands included in the inventory, full public participation rights would be afforded. <i>State of Utah et al v. Babbitt et al.</i>, 137 F.3d 1193, 1209 (10th Cir. 198). The court specifically held that a claim to set aside a land use plan revision would lie if public participation was denied, including a challenge to the results of the inventory if the results are utilized in proposing a revision to a land use plan. <i>Id.</i></p> <p>Moreover, while NEPA does not require courts to resolve disagreements, BLM must consider all relevant factors and provide a reasoned analysis and disclosure of the evidence before it. <i>Salmon River Concerned Citizens v. Robertson</i>, 32 F.3d 1346 (9th Cir. 1994). The DEIS, therefore, must now objectively consider and evaluate the public's input disputing the wilderness characteristics of these non-WSA areas.</p>		
Sweetwater Country Conservation District	9	16	WC	<p>DEIS Incorrectly States that Livestock Grazing is Consistent with WSA-type Management::</p> <p>The DEIS states that new livestock facilities can be constructed in these non-WSA areas, if consistent with the goals and objectives of the protection of alleged wilderness character. Supplement at 4-34. The DEIS incorrectly omits the fact that in practice, range improvement projects are not authorized in WSAs, even if necessary for the proper management of their livestock</p>	The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which includes changes in grazing, increases in grazing, and livestock developments, etc.	

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				<p>operations.</p> <p>Under standard WSA policy, the construction of range improvements is rarely considered compatible with the non-impairment of wilderness character, and if they are, the projects are usually held up in litigation at considerable cost to the grazing permittee. See Committee for Idaho's High Desert, 139 IBLA 251, 255 (1997). Under the IMP, for example, temporary livestock development must do the same and be substantially unnoticeable. Water developments are limited to springs where the water trough blends into the surrounding landscape as a whole. BLM Manual H-8550-1 at 41-42. The BLM WSA IMP imposes Class II VRM but Alternative E would impose the more restrictive Class I VRM management, which allows only minimal changes in visual resources.</p> <p>Range improvements are also clearly incompatible with the VRM Class I objectives established for the non-WSA lands with alleged wilderness character. The objective of this class is to preserve the existing character of the landscape and allows only very limited management activity. The level of change to the characteristics landscape must be very low and must not attract attention. BLM Handbook H-8410-1.</p>		
Sweetwater Country Conservation District	9	17	WC	<p>Alternative E's Impacts to Livestock Grazing and Rangeland Resources Not Adequately Considered:</p> <p>Under NEPA, BLM needs to consider the full spectrum of the affected environment, including impacts to rangeland resources, wildlife habitat, and livestock grazing. 40 C.F.R. 1508.13, 1508.14. The Supplement needs to consider the direct, indirect, and cumulative impacts to the rangeland environment from prohibiting such</p>	<p>The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which includes changes in grazing, increases in grazing, and livestock developments, etc.</p> <p>Table 2.3 Alternatives, Page 2-10 and 4.21.2.14.2 Alternative E. of the Supplement provides for maintenance and construction of Range</p>	

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				<p>treatments. Because the EIS incorrectly assumes no impact, it does not address the impacts of limiting or prohibiting improvements that will otherwise improve riparian areas and meadows, rejuvenate decadent stands of sage brush, or reduce encroachment of woody species (pinon-juniper) to benefit sage brush. In addition, livestock operators would be prohibited from accessing existing range improvements by motor vehicle in order to repair and maintain them, see id. At 2-10-11. and BLM needs to identify the affected range improvements and potential impacts to the environment if these planned improvements cannot go forward.</p> <p>Even assuming BLM cannot pinpoint the exact locations of rangeland projects and treatments, it can identify the impacts to those projects if Alternative E were adopted. Supplement at 4-93. BLM knows or should know that those projects are not allowed. Thus, the DEIS should disclose and analyze the impacts of Alternative E on wildlife habitat, sage grouse habitat, and riparian areas. It should also disclose and analyze the impacts of Alternative E on the feasibility of the public lands meeting, making substantial progress towards meeting, or maintaining rangeland health standards. There is no such discussion.</p> <p>The Supplement must also consider the negative impacts on livestock operations and the related impacts on the custom, culture, and economies of Daggett County and the tri-state region. Alternative E would remove most of the range management tools from use, thus leading BLM with no option but to reduce livestock and wild horse numbers in order to address rangeland health issues. This too is not disclosed or analyzed.</p>	<p>Improvements.</p>	

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			BLM's evaluation of impacts must also not be unfairly narrow. There are several interstate livestock operations that would be affected by Alternative E. Thus it affects the economies of Sweetwater County as well as those in Utah. Because wildlife migrate between states, the impacts on rangeland resources will also affect elk, deer, antelope, and sage grouse, just to name a few species.			
Sweetwater Country Conservation District	9	18	GRA	<p>BLM May Not Eliminate Grazing Non-Use in the RMP:</p> <p>Under Alternative E, a total of 77,294 Animal Unit Months (AUMs) would be allocated to livestock, a total of 106,196 AUMs would be allocated to wildlife, and a total of 3,960 AUMs would be allocated to wild horses. The number of livestock AUMs was determined by removing historic non-use AUMs (available AUMs not used over the past 10 years) from the no action alternative for the life of the management plan. Non-use by permittees would be the result of factors such as private business reasons, livestock market fluctuations, and drought conditions. This would result in an approximate 47.1% permitted use reduction for livestock and grazing uses. Supplement at 4-31.</p> <p>In order to adequately consider the impacts to livestock grazing, BLM must specifically identify the allotments which would lose non-use AUMs and calculate the number of lost AUMs by allotment. In addition, BLM fails to articulate a legal or factual basis to reduce permitted use, and as written, Alternative E violates BLM grazing regulations.</p> <p>BLM may not adopt an across the board reduction in permitted use in the RMP. Permitted use includes non-use, 43 C.F.R. 4100.0-5, and BLM may only reduce permitted grazing use when monitoring or field</p>	<p>As provided for in FLPMA, the Secretary has the discretion, in the land use planning process, to modify levels of use including livestock grazing. The RMP proposes, in all alternatives, to use monitoring information to adjust forage allocations based on current levels of livestock use, wildlife herd unit objectives, and wild horse AMLs in relationship to objectives set forth in each alternative (see alternative tables). This will assure that allocation levels are within the rangeland's ability to sustain them. While it is the goal of the BLM to enhance rangeland health while providing for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM neither to "retain full grazing preference AUMs" nor to take "all necessary actions to do so". According to FLPMA, BLM is to manage for "multiple uses" which best meet the present and future needs of the American people without permanently impairing the productivity of the land. The use of monitoring data to adjust forage allocations based on the lands capability is consistent with FLPMA, PRIA, and the TGA.</p>	

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			<p>observations or ecological site inventory or other data demonstrate that grazing use is causing an unacceptable level or pattern of utilization, that rangeland health standards are not being met or that use exceeds livestock carrying capacity. 43 C.F.R 4110.3, 4110.3-2.</p> <p>Furthermore, changes in permitted use may only be implemented by appeal able decision, on a case by case basis, after consultation, cooperation and coordination with the affected grazing permittee. Id at 4110.3-3. Alternative E's unilateral elimination of grazing non-use, therefore, is illegal.</p>			
Sweetwater Country Conservation District	9	19	AA	<p>The Supplemental DEIS fails to address the adverse environmental and economic impacts of WSA-type management BLM grazing permittees or the rangeland resources. It would eliminate intensive management options on a significant percent of land, thus adversely affecting vegetation and wildlife habitat. The Supplement fails to address the broader, landscape scale impacts, and in this regard, BLM's analysis does not allow for informed decision-making as required by NEPA.</p>	<p>Section 4.22.1.3 of the SEIS states:</p> <p>“Under all alternatives, livestock (cattle and sheep) would continue to graze on public lands in non-WSA lands with wilderness characteristics.”</p>	
Duchesne County Commission	10	1	WC	<p>On June 25, 2007, the Duchesne County Commissioners approved Resolution #07-15, which amended the Duchesne County General Plan to clarify the county's policies for the management and use of "non-WSA lands with wilderness characteristics" in the Twin Knoll-Wrinkles Road area of Duchesne County, which encompasses the Desolation Canyon non-WSA area identified in the supplement. A copy of this Resolution was forwarded to Selma Sierra, State BLM Director, by letter dated June 25, 2007.</p>	<p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and</p>	

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			<p>At that time, the County Commissioner made it clear that Duchesne County plans call for multiple use of these public lands. The county also submitted maps and photos showing that existing roads, mining and energy operations, spring developments, grazing lease improvements and other evidence of man's influence on the area raises the question whether such lands lying generally between Wrinkles Road and the Carbon County line and generally between the Sand Wash Road and the Uintah County line (Desolation Canyon non-WSA) actually possess wilderness character. We believe the answer to this question for much of the land protected under Alternative E is "no".</p> <p>In accordance with FLPMA, Duchesne County expects that the BLM will consider the county land use plan, including the June 2007 amendment, in making land management decision that are consistent with local policies to the greatest degree possible under federal law. Proposed Alternatives A and B of the draft RMP come closest to consistency with local plans. Alternatives C and E are inconsistent with local plans and the multiple use mandate of FLPMA.</p>	<p>local plans conflict with Federal law there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/DRMP, so that the State and local governments have a complete understanding of the impacts of the DRMP on State and local management options.</p>		
Duchesne County Commission	10	2	OTH	Page 2-7, Table 2.3, Lands and Realty, bottom sentence: ":An easement for the old Uintah Railroad bed from the Utah/Colorado line to Watson in Evacuation Creek would no be pursued.	The typographical error has been corrected in the Proposed RMP/Final EIS.	X
Duchesne County Commission	10	3	OTH	Page 2-10, Table 2.3, Recreation: Seep Ridge, Book Cliff Divide, and Atchee Ridge Roads would not be designed as Back Country Byways.	The typographical error has been corrected in the Proposed RMP/Final EIS.	X
Duchesne County Commission	10	4	WL	Page 2-20, Table 2.3, Wildlife and Fisheries, 1st paragraph: Are the locations of the McCook and Monument Ride mule deer migration corridors mapped so the reader can determine the location of these	The migration corridors are mapped in the Draft RMP. See List of Maps and Figures – Figure 34	

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				corridors?		
Duchesne County Commission	10	5	OTH	Page 4-10, Section 4.3.2.3.6, 2nd sentence: "Alternatives A, C, and E are likely to have the greatest beneficial impacts, because all three involve....".	The language has been changed in the Proposed RMP/Final EIS.	X
Duchesne County Commission	10	6	TRV	Page 4-21, Section 4.3.2.8.5, Alternative E proposes a 99.9% decrease in areas open to unrestricted OHV travel, closure of 392,818 acres to any OHV travel and closure of 228 miles of OHV routes. This action would be inconsistent with the Duchesne County general plan, which states that: "OHV's have become an important segment of the County's recreation industry. They provide an important tool and mode of transportation for farmers, ranchers and resource developers." Reducing the opportunities for OHV use to the degree proposed by Alternative E will negatively affect the area's motorized recreation industry.	<p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolved to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/DRMP, so that the State and local governments have a complete understanding of the impacts of the DRMP on State and local management options. A consistency review of the DRMP with the State and County Master Plans is included in Chapter 5.</p> <p>Additionally, research shows that there are positive recreational industry benefits associated with the protection of public land. (See section 4.12.3.3.3 pages 4-68 and 4-69.</p>	

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Duchesne County Commission	10	7	FIR	Page 4-26, Section 4.4.2.5.4, Under Alternative E, it is inaccurate to state that forests and woodlands would be "managed to promote biodiversity and multiple use/sustained yield" when woodland harvesting or salvage would be not allowed and vegetation treatment would be limited to prescribed burns under certain conditions.	The wording of this section will be revised to read-"managed to promote biodiversity and multiple use"	
Duchesne County Commission	10	8	FIR	Page 4-27, Section 4.4.2.7.5, at the end of this paragraph, it should be stated that Alternatives C and E have less beneficial impacts on fire management when compared to Alternative B.	The BLM declines to make the suggested wording change for a variety of reasons including, but not limited to, the following: 1. The BLM does not find the suggested changed necessary or appropriate. 2. The suggested wording change does not substantively contribute to or clarify the discussion. 3. The commenter did not provide any rationale why the suggested change is necessary or how the current data and analysis is incorrect. 4. The suggested change expressed personal opinions or preferences. 5. The suggested change had little relevance to the adequacy or accuracy of the RMP/EIS.	
Duchesne County Commission	10	9	GRA	Page 4-31, Section 4.7.2.2.5 and Page 4-98 (Table 4.14.1) Forage Management under Alternative E would be inconsistent with the Duchesne County land use plan in that forage for livestock would be reduced 47.1% in favor of wildlife and wild horses. The county plan states as follows": "Livestock allocations shall not be converted to wildlife allocations as long as the land supports the grazing Animal Unit Months (AUM's) assigned to the allotment. The only justification for decreasing domestic livestock grazing AUM's is for there to be a valid and documented scientific finding that the range district will no longer support the AUM's in question. The BLM and Forest Service are expected to comply with and honor	In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS. The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent	

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				the domestic grazing preference on grazing districts."	<p>of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p>	
Duchesne County Commission	10	10	MOG	<p>Page 4-36, Section 4.8.2.1.5, this section should mention the amount of acreage in the non-WSA lands with wilderness characteristics that has already been leased (129,468 acres according to Page 4-220). This data gives the reader a more accurate indication of how Alternative E would impact energy and mineral resources. Alternative E, which proposes a 2% decrease in the amount of land available for energy development, is inconsistent with the Duchesne County land use plan, which contains policies stating that:</p> <p>"Access to public lands for mineral development must be increased in the economic interest of the county citizens</p>	<p>Table 4.22.1 lists each non-WSA land with wilderness characteristics and provides the number of acres already leased by alternative.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans</p>	

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			<p>and government."</p> <p>"Development of the solid, fluid, and gaseous mineral resources of the state should be encouraged.:"</p>	<p>be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p>	
Duchesne County Commission	10 11	MIN	Page 4-39, Section 4.8.2.1.5.2, Locatable Minerals: the statements in this paragraph seem inconsistent with Page 12 of the 2004 Mineral Potential Report, which blames the low level of development activity for locatable minerals on withdrawals rather than the lack of such resources in the ground.	The paragraph states that "there is moderate potential for the occurrence of locatable minerals within the VPA". The BLM does not anticipate development activity for locatable minerals due to the large area subject to the oil shale withdrawal.	
Duchesne County Commission	10 12	SSS	Page 4-41, Section, 4.8.2.5.5.1, Raptors, Line 6: "Impacts to mineral and energy resources include an increase in development costs and a reduction in royalties paid..."	The purpose of the commenter's statement is unclear.	
Duchesne County Commission	10 13	WL	Page 4-42, Section 4.8.2.6.5, 2nd paragraph: It should be clear that if Alternative D does not specify what percentage of new surface disturbing activity will be allowed in wildlife habitat areas and Alternative E will limit such disturbance to 2.4% or 560 acres per township, that Alternative E would have a much greater potential impact on energy and mineral resource development compared to Alternative D-No Action.	Alternative D, which is the no action alternative, was formed from the Book Cliffs and Diamond Mountain RMP/FEIS. No percentage of new surface disturbing activity was calculated for wildlife habitat areas. Therefore, an exact relationship cannot be made.	

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Duchesne County Commission	10	14	MOG	Page 4-43, Section 4.8.2.8.2, management under Alternative E predicts a total of 6,117 oil, gas and CBM wells, which appears in Table 4.12.1. However, this section (and Section 4.10.2.4.5) indicates that this is a 4% increase compared to 5,856 wells under Alternative D. Actually, Table 4.12.1 shows a predicted 6,331 wells under Alternative D, making Alternative E management result in a decrease of 214 wells or a 3.4% decrease (see Table 4.12.1). It is Duchesne County's position that such a decrease would violate the county land use plan and EPCA.	Table 4.12.1 in the DRMP was inaccurate in the number of well potential by alternative. The FEIS will be corrected to reflect the correct numbers. Alternatives A, B, C, and E all reflect a greater well potential than Alternative D due to the proposed availability of lands within the Hill Creek Extension for leasing, which is not the case in Alternative D.	X
Duchesne County Commission	10	15	GRA	Page 4-47, Section 4.9.2.4.5, 2nd sentence: Why is it that surface disturbances associated with rangeland improvements are deemed beneficial as they would increase the potential of making new paleontological discoveries; while other types of surface disturbances are not found to have the same benefit? For example, in Section 4.9.2.7.5, on Page 4-48, Class I and II VRM management under Alternative E is found to have the fewest adverse impact on paleontological resources. However, using the rationale from Section 4.9.2.4.5, Class I and II VRM would be less beneficial as there would be less surface disturbances and less chance to actually discover and study such paleontological resources.	Section 4.9.2.4.5 indicates that "it is anticipated that the primary indirect impact would be to increase the adverse potential for concentrated trampling of paleontological localities located in areas adjacent to fencing or reservoirs on barren bedrock." This means that more surface disturbing activities have the greatest potential to impact paleontological resources	
Duchesne County Commission	10	16	WC	Page 4-49, Section 4.9.2.8.0: This section, which indicates that management under Alternative E would provide greater long-term beneficial impacts to paleontological resources, conflicts with the finding in Section 4.9.2.4.5 which indicates that surface disturbance actually increases the chances for finding and studying such resources. The theory is that such resources have less value if left undetected and greater value once discovered and analyzed (as a result of the	Comment Noted.	

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				surface disturbance).		
Duchesne County Commission	10	17	REC	<p>Page 4-51, Section 4.10.2.3.5 and elsewhere throughout the supplement: It is the position of Duchesne County that the majority of citizens in our county and across the country do not participate in primitive, non-motorized forms of recreation due to age, mobility, health conditions and economic considerations. The majority needs motorized access to enjoy recreation opportunities such as hunting, fishing, and wildlife viewing. The Duchesne County public lands plan states that 12% of the county's land area is already wilderness and this area is highly inaccessible, which makes it off-limits for the majority of citizens. The plan states: "Wilderness designation is inconsistent with the philosophy of multiple use and sustained yield and adversely affects the County's economy in terms of grazing, tourism, timber industries, and water resources." Throughout the supplement, the benefits of protecting wilderness characteristics are mentioned without mentioning the detrimental impacts listed in the county plan.</p>	<p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolved to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/DRMP, so that the State and local governments have a complete understanding of the impacts of the DRMP on State and local management options. A consistency review of the DRMP with the State and County Master Plans is included in Chapter 5.</p>	
Duchesne County Commission	10	18	TRV	<p>Page 4-52, Section 4.10.2.4.5, 2nd paragraph, Page 4-58, Section 4.10.2.8.5, Page 4-59, Section 4.10.2.11.5: Closure of 228 miles of vehicle routes under Alternative E would be inconsistent with the Duchesne County land use plan, which states that "Access to and across public lands, including RS 2477 roads and rights of way, should remain open. All necessary action will be taken to protect access.</p>	<p>See Response to Comment 10-6-TRV.</p> <p>With specific regards to RS 2477 roads, direction is given within the Draft RMP on pg 1-11 and states:</p> <p>Revised Statute 2477 assertions, concerning the construction of roads across public lands, as proposed by counties within the planning area would</p>	

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					be addressed with current policy.	
Duchesne County Commission	10	19	TRV	Page 4-64, Section 4.11.2.12.5: In this section and elsewhere throughout the supplement, reference is made to "rehabilitating" roads after it is determined that they no longer serve the permitted purpose. To rehabilitate means to restore, repair, revitalize, recover, regenerate or re-establish. We believe it would be clearer to state that such roads should be obliterated and the land reclaimed to a more natural condition. The Duchesne County plan calls for analysis and county involvement in decisions to obliterate and reclaim roads.	The BLM does not find the suggested change necessary. As a cooperating agency in the RMP process and a local government entity, BLM would involve the county on decisions concerning general purpose roads.	
Duchesne County Commission	10	20	MOG	Pages 4-66, 4-67, Section 4.12.3.2.5: The analysis in this Section 4.13.2.4.5 (Page 4-73) seems to be flawed in that it presumes Alternative E would increase the number of oil, gas and CBM wells when compared to Alternative D, when actually Alternative E would result in 214 fewer wells according to Table 4.12.1 (6,331 wells in Alternative D versus 6,117 under Alternative E).	See comment response 10-O-14.	X
Duchesne County Commission	10	21	SOC	Pages 4-68 and 4-69, Section 4.12.3.3.3: Duchesne County disputes the findings of studies concluding that wilderness areas add positive economic benefits to local communities. These studies fail to take into account the negative impacts to the grazing, motorized travel, tourism and timber industries and to water resources needed to support the economy, when multiple use is not allowed. Our experience is that "high dollar recreation, such as hunting," referred to on Page 4-69, does not necessarily mean high dollars to the local economy (most hunters will outfit and supply themselves using sources outside the area, exploit the hunting opportunities locally, spending as little money as possible while here, and then return home).	The cited studies concentrate on the purported economic benefits of wilderness; they do not necessarily conclude that there are no costs, nor even that the benefits always exceed the costs. The analysis in Chapter 4 explicitly states that the cited studies generally were done in the context of designated wilderness, and may or may not apply to WSA's or non-WSA lands with wilderness characteristics. The Proposed RMP/Final EIS discusses in Chapter 4 the positive and negative impacts of all plan decisions, including the impacts from the decision to preserve, protect and maintain 106,178 acres for wilderness characteristics.	
Duchesne County	10	22	SOC	Page 4-69, Section 4.12.3.4.2: The findings under Alternative E are inconsistent with the socioeconomic	The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land	

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Commission				statements in the Duchesne County land use plan which promote motorized access to and multiple use of public lands and conclude that additional wilderness designation shall be opposed.	<p>management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolved to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the Proposed RMP/Final EIS, so that the State and local governments have a complete understanding of the impacts of the Proposed RMP on State and local management options. A consistency review of the Proposed RMP with the State and County Master Plans is included in Chapter 5.</p>	
Duchesne County Commission	10	23	MOG	Page 4-73, Section 4.13.2.4.5: The figure 1,499,461 acres open for leasing under Alternative E appears to be inconsistent with the acreage figure given in Table 4.12.1 (1,547,090 acres).	The figures are not inconsistent. The 1,547,090 acreage figure given in Table 4.12.1 and also discussed on page 4-66 of the Supplement is acreage within the planning area open to oil and gas leasing subject to standard, timing and controlled surface use, or NSO stipulations. The 1,499,461 acreage figure given on page 4-73 of the Supplement is acreage within the planning area open to oil and gas leasing subject to standard or timing and controlled surface use stipulations (did not include NSO areas).	

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Duchesne County Commission	10	24	OTH	Page 4-74, Section 4.13.2.6.5 (Alternative E should be singular). In the last sentence of this section, "These alternatives should be changed to "this alternative".	The language has been changed in the Proposed RMP/Final EIS.	X
Duchesne County Commission	10	25	SOL	Page 4-79, Section 4.13.2.16.5, Page 4-103, Section 4.16.2.8.5 (last paragraph), Page 4-105, Section 4.16.2.10.1 (last paragraph): Duchesne County disagrees that Alternative E would have greatest overall benefits to soil productivity and watershed health. Since Alternative E does not allow vegetation management (other than potential prescribed burns) the alternatives that allow a wider range of vegetation management actually hold more promise to benefit soils and watersheds compared to the "hands-off": approach of Alternative E.	Several types of vegetation management are allowed as described in Table 2.1.23 of the SRMP/SEIS: "Management Common to All." This large "tool-box" provides management several options for soil and watershed health.	
Duchesne County Commission	10	26	ACE	Page 4-80, Section 4.14.1.3.1, paragraph 1, last sentence: Because Alternative C would designate both ACEC's... Second paragraph: Just because Alternatives B and D would not designate such ACEC's we question if pinyon pine habitat and watershed health could be enhanced by other management tools. Is an ACEC absolutely necessary to protect these resources or will other tools do the job?	Through FLPMA, BLM has authority to designate ACECs where special management attention is required to protect and prevent irreparable damage to important cultural, historic, or scenic values; fish and wildlife resources; or other natural systems or processes or to protect life and safety from natural hazards. Where ACEC values and wilderness characteristics coincide, the special management associated with an ACEC, if designated, may also protect "wilderness characteristics: (IM-2003-275). However, BLM policy directs that "an ACEC designation will not be used as a substitute for wilderness suitability recommendations: (BLM-M-16513). Wilderness characteristics were not considered relevant or important values when evaluating or designing management for potential ACECs. The RMP presents the various management strategies for achieving the desired range of alternatives. Size and management prescriptions	

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					<p>vary between the alternatives. If the protection of the relevant and importance values “outweighs” the other resource uses then the ACEC was proposed under all the alternatives.</p> <p>The relevant and important values of the ACEC extend beyond the 160 acres within which the Old Growth Pinion Pine is located. These values include cultural resources, an important watershed, and a critical ecosystem for wildlife and migratory birds. As such, the area encompassed by the ACEC is larger than the 160-acre pinion forest.</p>	
Duchesne County Commission	10	27	WSR	Page 4-85, Section 4.14.1.3.6, last paragraph: Would this statement hold true if the White River were designated Wild and Scenic?	<p>The last paragraph in section 4.14.1.3.6 states:</p> <p>Neither Alternative B nor D – No Action would designate the White River corridor as an ACEC. Accordingly, they would result in greater adverse impacts to the previously described resources along the corridor. However, they would also have fewer restrictions to oil and gas development and OHV use.</p> <p>Commentor does not give specific portion of the paragraph that he/she wants to know specifics about.</p> <p>If the commentor is asking if WSR designation would provide protection the White River, it should be noted that the BLM does not designate Wild and Scenic rivers, it only identifies, finds eligible or non-eligible and recommends as suitable to congress specific river segments.</p> <p>However, management prescriptions for the White River would add additional protections to the White River should it be found suitable as part of the Record Of Decision. It would , however, be subject to Valid</p>	

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					Existing Rights.	
Duchesne County Commission	10	28	SSS	Page 4-92, Section 4.15.2.3.5.2, 2nd paragraph: Alternative E would decrease the proportion of white-tailed prairie dog habitat open to oil and gas development...	The purpose of the commenter's statement is unclear.	
Duchesne County Commission	10	29	WC	Page 4-97, Section 4.15.2.10: This section states that Alternative E protects 277,596 acres; however Table 4.15.2 implies that much less land is protected. Is this due to existing leases	Table 4.15.2 does not imply toward impacts on Special Status Species; however, it does apply to Mineral Development.	
Duchesne County Commission	10	30	ACE	Page 4-104, Section 4.16.2.10.1: Alternative B seems to be left out of the analysis for the Coyote Basin and Four Mile Wash ACEC's.	The commenter is correct that the Alternative B analysis has been left out of the analysis. This will be updated in the Final EIS. Four Mile wash would not be designated under alternative B, and as a result would not impact, or would have the same impact as alternative D.	X
Duchesne County Commission	10	31	VEG	Page 4-106, Section 4.16.2.12.1, last paragraph and Section 4.16.2.13.3: Closing 228 miles of travel routes and designating Class I and II VRM will likely be detrimental to vegetation resources long-term in that such closures and restrictions will make it more difficult to control noxious weeds or manage vegetation for better habitat and reduce fuel loads. This is not mentioned in the supplement until the end of Section 4.16.2.16.5 on Page 4-108.	The benefits from closing 228 miles of travel routes will reduce the amount of weed seed being introduced and dispersed and will likely outweigh the impact to vegetation from reduced weed management.	
Duchesne County Commission	10	32	WC	Page 4-109, Section 4.16.2.17.2 and elsewhere in the supplement: The amount of protection is overstated (277,596) due to the presence of valid, existing leases.	The commenter does not provide data to support the amount of valid and existing leases.	
Duchesne County Commission	10	33	VRM	Page 4-118, Section 4.17.2.10.3, last paragraph: It should be noted here that Alternative E has the fewest beneficial long-term impacts as beneficial vegetation treatment would be severely restricted in the areas deemed to have wilderness character.	The BLM declines to make the suggested wording change. The section is concerned with the impacts of vegetation decisions on visual resources. Alternative E emphasizes the protection of all non-WSA lands with wilderness characteristics. The fact that vegetative treatments are severely restricted in wilderness characteristics means that Alternative E	

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					does have the greatest long-term beneficial impacts to visual resources and non-WSA lands with wilderness characteristics.	
Duchesne County Commission	10	34	VRM	Page 4-113, Section 4.17.2.6.5, 4th paragraph: the long-term adverse impacts of light pollution adjacent to the Dinosaur National Monument would be mitigated, which would benefit night-time visual quality in that portion of the VPA near the monument.	The BLM agrees that the recommended text would more accurately describe VRM impacts. The text has been changed in the document.	
Duchesne County Commission	10	35	WD	Pages 4-118 and 4-119, Section 4.17.2.12.5: The 1st paragraph of this section notes that woodland salvage and harvesting would be prohibited under Alternative E. However, in the second paragraph, it gives the impression that woodland salvage and harvesting would be allowed. This apparent inconsistency should be clarified.	Section 4.20.1-Impacts Common to the Proposed Plan and all Alternatives, states: "Woodland resources would be treated or harvested under the Proposed RMP and all of the alternatives; however, under the Proposed RMP and Alternative E, non-WSA lands with wilderness characteristics would be managed with prohibitions on woodland and timber harvesting and salvage. These prohibitions would have adverse impacts on harvesting opportunities in the long term. The section has been revised in the Proposed RMP/Final EIS. The section number has been changed to Section 4.20.2.9-Alternative E.	X
Duchesne County Commission	10	36	VRM	Page 4-120, Section 4.17.2.13.2: This section fails to account for the loss of benefits associated with the reduction in vegetation management options under Alternative E (as stated in Section 4.17.2.12.5).	The sections quoted by the commenter concern impacts to visual resources and the beneficial impacts to visual quality. BLM states in the Supplement on page 4-106 that Alternative E would provide long-term beneficial impacts to vegetation by limiting surface and vegetation disturbances.	
Duchesne County Commission	10	37	OTH	Page 4-122, Section 4.18.2.3.3: The acronym "HA" (which means Herd Area), is not listed in the list of acronyms included in the RMP.	The acronym has been included in the list of acronyms in the Proposed RMP/Final EIS.	X
Duchesne County Commission	10	38	WHB	Page 4-123 and 4-124, Section 4.18.2.5.3: This section correctly concludes that Alternatives C and E have more beneficial long-term impacts on wild horses than	A goal and objective of the Proposed RMP/Final EIS is to provide for the interim management of wild horses as the gathering and removal of all wild	

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			Alternative D; however, it fails to note that these two alternatives would have fewer long-term beneficial impacts than Alternative B, which provides for more rangeland improvements and vegetation treatments than Alternatives C or E (see Table 4.18.2).	<p>horses is completed. In the Proposed Plan FEIS, all wild horses are going to be removed from the Planning Area due to the complexity of surface ownership, manageability of the wild horses, and the continued presence of a the highly infectious disease – Equine Infectious Anemia (EIA).</p> <p>As stated in the “Dear Reader” letter at the front of the Supplement to the Draft RMP/EIS, “Under Alternative E, the proposed decisions that apply to the lands outside of non-WSA lands with wilderness characteristics remain the same as those in Alternative C.” The commenter needs to look at both the DRMP and SDEIS to have a full context of the document including a description of the alternatives, environment, and anticipated impacts.</p> <p>Section 4.18.2.5.2 of the Draft EMP/EIS has been revised in the Proposed RMP/Final EIS to identify short-term benefits. The section has also been renumbered as 4.18.2.5.3</p> <p>Section 4.18.2.5.3 of the Draft RMP/EIS has been renumbered as 4.18.2.5.4.</p>	
Duchesne County Commission	10	39	WHB	Page 4-125, Section 4.18.2.7.2: This section fails to recognize that limited vegetation management options under Alternative E will prohibit some beneficial treatments from taking place to the benefit of wild horses.	See comment response 10G-38.
Duchesne County Commission	10	40	GRA	Page 4-125, Section 4.18.2.8.3: This section gives the reader the impression that Alternatives C and E provide the most range improvements. Table 4.18.2 shows that Alternative B actually provides the most range improvements.	Table 4.18.2 indicates that Alternatives B would provide more acres of vegetation treatment miles of fencing, and miles of water pipelines than Alternatives C and E. However, Alternatives C and E would allow the development of more wells/springs that

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					Alternative B.	
Duchesne County Commission	10	41	GRA	Page 4-132, Section 4.19.2.6: This section favorably compares Alternatives C and E to Alternative D; however, it fails to recognize that Alternative C and E offer fewer rangeland improvements than Alternative B (see Table 4.19.8).	See comment response 10-O-40.	
Duchesne County Commission	10	42	WD	Page 4-139, Section 4.20.2.2.3 and Page 4-142, Section 4.20.2.6.3: These sections maintain that Alternative E would have long term beneficial impacts on woodland resources by maintaining woodland productivity in those areas. However, if no woodland harvesting or salvage were allowed under Alternative E, woodland productivity would actually drop to zero. How can woodland productivity be enhanced by making salvage and harvest impossible?	<p>Section 4.20.2.2.3 is referring to the impacts of Lands and Realty Decisions on Woodland Resources. If ROWs and mining-related surface disturbances are prohibited under Alternative E, then no adverse impacts would occur for lands and realty decisions in non-WSA lands with wilderness characteristics.</p> <p>The last paragraph of Section 4.20.2.6.3, page 4-142, states that there would be long-term, adverse impacts on harvesting opportunities and beneficial impacts on resource protection and productivity.</p> <p>A Forest and woodland management plan would be prepared after the Record of Decision is signed. This plan would provide guidance on: the status of forest and woodland management resources; current conditions of the forest and woodland resources; the current level of forest and woodland management activity; opportunities and rational for increasing management activity; resources necessary to increase management activity; and, potential impediments to successfully increasing management activity.</p>	
Duchesne County Commission	10	43	WD	Pages -144, 4-145, and 4-212, Sections 4.20.2.10.5, 4.20.2.12.5 and 4.21.2.13.5: Duchesne County does not agree that prohibitions on woodland harvesting and gathering have beneficial impacts on woodland resources. The decades of "hands-off" management of	The sections referenced by the commenter refer to the impact of a variety of resource program activities on Woodland Resources. Some of the resource program activities do provide beneficial impacts while others cause adverse impacts. These impacts are	

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			woodlands has led to insect infestation, build-up of fuels and degradation of habitat. Proposed woodland management under Alternative E would actually be detrimental to forest health (providing the least level of woodlands resource protection long-term).	discussed in the Supplement to the Draft EIS. A Forest and woodland management plan would be prepared after the Record of Decision is signed. This plan would provide guidance on: the status of forest and woodland management resources; current conditions of the forest and woodland resources; the current level of forest and woodland management activity; opportunities and rational for increasing management activity; resources necessary to increase management activity; and, potential impediments to successfully increasing management activity.	
Duchesne County Commission	10 44	GRA	Page 4-153, Section 4.21.2.4.1: This section focuses on removal of livestock from the Nine Mile--Desolation Canyon areas. It is not clear from this section how the other 24 non-WSA areas will be treated...will livestock be removed from all of them? Does the grazing restriction apply only to lands in Nine Mile Canyon itself or would it also affect the numerous grazing allotments in Duchesne County north of the canyon rim?	As Page 4-153, Section 4.21.2.4.1 states "Under these alternatives, lands acquired in the Nine Mile area would not be grazed by livestock to enhance riparian and watershed values." This only applies to lands acquired in Nine Mile as stated above.	
Duchesne County Commission	10 45	MOG	Pages 4-166 to Page 4-178, Table 4.21.1: Change heading "Oil & as Development Potential" to "Oil & Gas Development Potential".	The FEIS will reflect this correction.	X
Duchesne County Commission	10 46	WC	Page 4-166 to 4-178, Table 4.21.1, Bourdette Draw: Why 0 acres affected when 5,744 acres are already leased?	The term "Leased" does not pertain to surface disturbance. Areas may have valid and existing leases but do not have surface disturbances.	
Duchesne County Commission	10 47	WC	Cold Springs Mountain: 8,764 acres vs. 8,674?	8,764 is the correct acreage. BLM will make the correction in the Final RMP.	X
Duchesne County Commission	10 48	WC	Daniels Canyon: Why 0 acres affected when 322 acres are already leased?	Please see Response to ID No. G-10-Comment 46.	
Duchesne	10 49	WC	Diamond Mountain: Why 0 acres affected when 5,475	Please see Response to ID No. G-10-Comment 46.	

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County Commission				acres are already leased?		
Duchesne County Commission	10	50	REC	Page 4-183, Sections 4.21.2.6.5 and 4.21.2.6.6: Are any of the areas proposed for SRMA's located within areas subject to existing energy leases? If so, the conclusions reached by these sections would not be true.	<p>In Section 1.4.1.2 of the Vernal DRMP/DEIS under Planning Criteria, it is noted that "The revised RMP would recognizes valid existing rights.</p> <p>Thus, all SRMAs are subject to Valid existing rights, and would be subject to existing rights for all resources.</p> <p>The Conclusions reached by the sections would remain consistent with SRMA identifications. The goals and objectives for Each SRMA would be maintained and Valid existing rights not be removed as a result of SRMA identification.</p>	
Duchesne County Commission	10	51	TRV	Page 4-184, Section 4.21.2.7.1, end of 2nd paragraph: While it is recognized that there would be long-term, adverse impacts associated with OHV trail widening and extension of the trail system, if the BLM can offer IHV riders sufficient, authorized trails to ride, this should reduce unauthorized cross country use, which would have long-term beneficial impacts on resources. Recent US Forest Service Travel Management Planning shows a 360% increase in OHV use in the Uintah Basin in the past eight years. Sufficient trails are needed to ensure that this increased use occurs in appropriate areas.	<p>Although this issue was raised during scoping, the application in the DRMP/EIS is limited. Under Management Actions Common to All Alternatives, travel routes can be added or deleted from the Travel Plan based on public demand or unacceptable impacts to resources. This action would be based on monitoring and site specific NEPA analysis. A comprehensive travel management plan will be completed within 1-5 years after the Record of Decision.</p> <p>General Planning maps to provide a framework for the Comprehensive plan have been included within the Draft RMP (see figures 25-28) and the Supplement (see figure 28e).</p>	
Duchesne County Commission	10	52	TRV	Pages 4-186 and 4-187, Section 4.21.2.7.3: The 3rd and last paragraphs in this section appear to be repetitive.	The document will be revised to reflect the comment.	
Duchesne County	10	53	WC	pages 4-190, Section 4.21.2.8.6: This section fails to recognize that, under Alternative E, surface disturbance	As stated in Sections 4.21.2.8.5 Alternative E "As with Alternative C, no surface disturbance would be	

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Commission				would be allowed in areas subject to valid, existing energy lease rights.	permitted on slopes between 21% and 40% without an approved erosion-control strategy. Further, surface disturbance would not be allowed on slopes over 40%. However, under this alternative, no surface disturbance would be permitted that would impact the natural character of the non-WSA lands with wilderness characteristics. The effects of these actions would preserve the wilderness characteristics of non- WSA lands with wilderness characteristics. Valid and existing lease rights are subject to surface disturbance stipulations.	
Duchesne County Commission	10	54	ACE	Pages 4-198 and 4-199, Section 4.21.2.9.3: In the paragraph associated with the Mine Mile Canyon ACEC and Desolation Canyon, it should be noted that 66% of this area is currently leased for energy development.	Comment noted The BLM declines to add the recommended language.	
Duchesne County Commission	10	55	WSA	Pages 4-200 and 4-201, Sections 4.21.2.9.4 and 4.21.2.9.5: In the last paragraph of each section, how can there be opportunities for solitude and primitive recreation in the Cripple Cowboy and Bull Canyon areas when they are 85% and 89% leased for energy development, respectively, according to Table 4.21.1?	Leasing does not always mean intensive development. Stipulations and mitigation can be included in lease sales to include NSO or timing constraints on development. It is feasible that a large tract of land can be leased and still allows opportunities for solitude and primitive recreation. One example would be along the White River within the VPA. Although a large portion of the area around the White River is leased, river runners report that a major reason they choose the White River are the opportunities for solitude and primitive recreation.	
Duchesne County Commission	10	56	OTH	Page 4-203, Section 4.21.2.10.6, 1st sentence: "Alternative" should be plural.	The typographical error has been corrected in the Proposed RMP/Final EIS.	X
Duchesne County Commission	10	57	OTH	Page 4-208, Section 4.21.2.11.6: "150,001 acre" should be plural.	The typographical error has been corrected in the Proposed RMP/Final EIS.	X

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Duchesne County Commission	10	58	OTH	Page 4-213, Section 4.21.2.14.2: 1st line: ...would be managed by the following prescriptions: 12th bullet: Construction of wildlife watering facilities.	The language has been changed in the Proposed RMP/Final EIS.	X
Duchesne County Commission	10	59	WC	Page 4-218, Section 4.21.6, 2nd paragraph: Does the estimate of 124,215 acres losing their wilderness character due to existing leases also take into account the potential leasing and development of SITLA lands that "checkerboard" the region? Duchesne County expects that development of SITLA lands will result in the loss of even more wilderness character on adjoining BLM lands, which makes management of these areas for wilderness even less feasible or desirable.	SITLA lands are not included in the determination of Wilderness Character.	
Duchesne County Commission	10	60	WC	Page 4-219, Section 4.22, 2nd paragraph on this page: The list of other land management agencies in this paragraph fails to mention SITLA, which owns many sections of land abutting non-WSA lands managed by the BLM.	Comment Noted. SITLA will be added.	
Duchesne County Commission	10	61	REC	Page 4-219, Section 4.22, last paragraph on this page: Duchesne County questions the listing of "primitive forms of recreation:" to include hunting, fishing, and wildlife viewing, when the majority of the population uses motorized vehicles to participate in such activities. Creation of wilderness makes such activities difficult to participate in for the majority of citizens.	The activities can be and are accomplished by both motorized enthusiasts, and non-motorized enthusiasts, and are therefore correctly categorized within primitive forms of recreation, but not excluded from motorized forms of recreation. The commenter offers an opinion of wilderness as follows: "Creation of wilderness makes such activities difficult to participate in for the majority of citizens." This is a general opinion dealing with the philosophy of wilderness and is beyond the scope of the Draft RMP and Supplement.	
Duchesne County	10	62	REC	Page 4-221, Section 4.22.19, last paragraph on this page: Focusing on primitive forms of recreation and	Comment noted.	

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Commission				limiting motorized recreation may increase opportunities for solitude and primitive recreation, but this occurs at the expense of the majority, who don't seek solitude or primitive recreation and need motorized access to enjoy these lands.	<p>The BLM considered a wide range of alternatives for motorized use, including constructing/designating up to 800 miles of additional motorized trails and 400 miles of non-motorized trails (Alt A.)</p> <p>Acres and miles for motorized use (as it relates to OHV's) are clearly stated within the DRMP on table S.1 within the executive summary of the Draft RMP, and additional OHV numbers are stated within table S.4 as part of the Supplement. The BLM has Clearly offered opportunities for Motorized use within the VPA.</p>	
Duchesne County Commission	10	63	WC	Page 4-222, Section 4.22.19, 3rd sentence in 1st paragraph: Remove reference to "a more industrial landscape" and use "reduction of natural landscapes."	<p>Comment noted.</p> <p>The BLM declines to make the suggested wording changes for a variety of reasons including, but not limited to, the following:</p> <ol style="list-style-type: none"> 1. The BLM does not find the suggested changes necessary or appropriate. 2. The suggested wording change does not substantively contribute to or clarify the discussion. 3. The commenter did not provide any rationale why the suggested change is necessary or how the current data and analysis is incorrect. 4. The suggested change expressed personal opinions or preferences. 5. The suggested change had little relevance to the adequacy or accuracy of the RMP/EIS. 	
Daggett County	11	1	AA	<p>Managing the Subject Lands Under Alternative E Would Violate Federal Law, BLM Policy, and the State of Utah/Department of Interior Settlement Agreement of 2003.</p> <p>Daggett County's position on this point was set forth in its letter, dated April 2, 2007, jointly addressed to State</p>	<p>Please see Response to ID No. G-9-Comment 1.</p> <p>Comment Noted.</p>	

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			<p>BLM Director Selma Sierra and Vernal BLM Field Office Manager William Stringer. An extra copy of that letter (Exhibit A) {see attached letter} is enclosed for your reference. At the risk of repeating some of the points in that letter, Daggett County submits the following additional comments concerning the illegality of adopting Alternative E:</p> <p>By adding Alternative E, BLM has exceeded the true intent of the Kimball Decision. Although the Kimball decision itself rests on an adjudged violation of NEPA, Judge Kimball emphasized that NEPA itself is merely procedural, that NEPA does not mandate a particular management standard, but rather NEPA only imposed the duty to analyze the effect of whatever management standard is applied. BLM's duty under Kimball was to analyze the effects of current alternatives on only alleged wilderness characteristics that may be found in the Subject Lands, not to create a non-impairment management standard as to those characteristics. With all respect, the BML has turned the Kimball decision on its head by purporting to create the new Alternative E management standard.</p> <p>Adopting Alternative E would violate the restrictions of BLM's own Instruction Memorandum No. 2003-275, which states "it is no longer BLM policy to continue to make formal determinations regarding wilderness character, designate new WSAs through the land use planning process, or manage any lands--{except Section 603 WSAs} in accordance with the non-impairment standard prescribed in the IMP {Interim Management Policy for WSAs}." (Emphasis added.) Under the standard "if-it-walks-like-a-duck-and quacks-like-a-duck-it-must-be-a-duck" analysis, the prescriptions of</p>		

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				<p>proposed Alternative E are substantially similar, if not more restrictive, than the restrictions of the BLM IMP for WSAs. Thus the proposed Alternative E squarely contradicts the BLM's own IM 2003-275.</p> <p>The proposed Alternative E's restrictive management standards that would effectively treat the Subject Lands as if they are WSAs, are largely built around BLM's 1999 Utah Wilderness Reinventory. Yet in 2003 the Department of Interior promised the State of Utah, among other things, not to use the 1999 Utah Wilderness Reinventory to manage public lands "as if": they are or may become WSAs. Utah v Norton settlement agreement of April 11, 2003 at p. 13 Para 14.</p> <p>It has long been the County's position that if these lands had "wilderness character: they would have been included in previous inventories as possible wilderness. A more correct title would be "lands that have characteristics associated with the concept of wilderness."</p>		
Daggett County	11	2	PRP	<p>Managing the Subject Lands Under Alternative E Would Clash With State and Local Policies and Plans for Managing Those Lands, and Would Thus Violate the Consistency Requirement of FLPMA Section 202©(9).</p> <p>The BLM is mandated by FLPMA at 43 U.S.C. 1712©(9) as follows:</p> <p>Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.</p> <p>The proposed Alternative E is inconsistent with Utah Law</p>	<p>See comment response 9-G-12.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law there will be an</p>	

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				<p>and with Daggett County's General Plan.</p> <p>State Public Lands Policies</p> <p>The State of Utah's policy and plan for managing BLM lands is substantially set forth in Utah Code 63-38d-401(6), (7) and (8). It is self evident that the management prescriptions and restrictions in the proposed Alternative E are not inconsistent with the standards and policies set forth in this State statutory provision. There is no way for the BLM to reconcile these sharp inconsistencies; in other words, there is no way for the BLM to adopt Alternative E for the Subject Lands and meet its legal obligations of consistency under FLPMA Section 202 (c)(9).</p> <p>Daggett County's Policies Specific to the Subject Lands</p> <p>Several months ago, the Daggett County Planning Commission and the Daggett County Commission duly approved amendments to the Daggett County General Plan to clarify Daggett County's policies for managing each of the Subject Land Areas that are now the subject of the Supplement. A copy of those plan amendments with a cover letter were sent to the BLM Vernal Field Office after they were adopted. Those plan amendments for each of the Subject Lands are incorporated herein by reference, and for your addition reference copies of those plan amendments (Exhibit B) are enclosed with this letter.</p> <p>Those County plan amendments are consistent with the above-mentions State Law and Policies for managing public lands. Under those plan amendments for the Subject Lands, it is clear that the proposed Alternative E</p>	<p>inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p>	

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			<p>standard for managing those Subject Lands are not consistent with Daggett County's plans and policies for managing the Subject Lands.</p> <p>In short, Daggett County's General Plan sets forth management specific plans that are directly and specifically applicable to each of the Subject Lands. Thus in accordance with FLPMA Section 202 (c)(9), Daggett County respectfully calls upon BLM to follow FLPMA by conforming its plan for managing the Subject Lands to Daggett County's plan for managing the Subject Lands. A first step toward meeting this statutory obligation is for the BLM to not adopt Alternative E for the Subject Lands. This same request also applies to the Alternative C for the Subject Lands, which is equally inconsistent with Daggett County's plan for managing the Subject Lands.</p>			
Daggett County	11	3	WC	<p>Managing the Subject Lands Under Alternative E Would Arbitrarily and Capriciously Ignore the Volumes of Documentation and Information Submitted by Daggett County Which Show the Subject Lands Lack True Wilderness Character.</p> <p>Daggett County has assembled and submitted extensive information which shows the Subject Lands have been subjected to past resource uses and impacts that are inconsistent with the notion of wilderness character, and that the Subject Lands are better suited to a continuation of those traditional multiple uses, all under the FLPMA 202 principles of sustained yield and avoidance of undue degradation, of course.</p> <p>A map is enclosed with this letter (Exhibit ____), that clearly shows the majority of the Subject Lands are currently under lease for extractive purposes. This alone</p>	Please see Response to ID No. G-9-Comment 15.	

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				<p>both disqualifies those lands for consideration for designation as Non-WSA Lands with Wilderness Characteristics and informs against their being managed under the Alternative E prescriptions proposed.</p> <p>Additionally, we provided information on December 31st, which contained detailed analyses of the Subject Lands. These analyses demonstrate that none of the Subject Lands qualify as having wilderness characteristics. The many attributes of the Subject Lands documented in these volumes, such as roads, mineral and energy development, extractive leasing, existing leasing, livestock improvements, need for access for vegetated treatment, and other uses clearly show that the imprint of man and the previous resource allocations preclude any rational finding of solitude and naturalness necessary to rationally designate those areas as having wilderness characteristics.</p> <p>Do any of the Subject Lands possess wilderness character worthy of Alternative E management (even if Alternative E were not illegal and not inconsistent with State and Local Policies)? We believe the answer to this question is "no:"</p>		
Daggett County	11	4	SOC	<p>Economic studies/socio economics</p> <p>Utah State University & the University of Utah completed a number of economic and social-attitude studies regarding the use of and value attributed to public land resources by Utah residents. These studies assess: general attitude of the citizens toward the public lands, off-highway vehicle use on public lands, grazing on public lands, potential Wild and Scenic River designation, and economic impacts of oil and gas exploration.</p>	<p>The results of the Utah State University public lands survey and the University of Utah study on the economic impacts of oil and gas development in the Uintah Basin have been incorporated into the Proposed RMP/Final EIS. Chapter 3 summarizes the public lands survey results, and an Appendix has been added showing the raw results for the three counties in the planning area. Data from the University of Utah study has been extensively incorporated into Chapter 4 analysis.</p>	

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				<p>Recent information from that study shows that oil & gas exploration and production (E&P) accounts for 60 percent of all wages paid in the Uinta Basin. (See attachment A). The extractive industry is extremely important to the economic viability of the Uintah Basin both directly and indirectly. Studies show that this industry has and will sustain itself for many years to come. (See attachment B). The Basin is very rich in its natural resources.</p> <p>The importance of the extraction industry reaches far beyond the Uintah Basin. The Rocky Mountains west will play an increasing roll in meeting the nation's needs for gas. The annual energy outlook 2004 with projections to 2025, clearly shows the increasing roll of the rocky mountain area in gas production. The Uintah Basin makes up a considerable portion of the area and its associated production.</p> <p>Page 4-68 and 4-69 of Alternative E. Daggett County disputes the findings of studies concluding that wilderness areas add positive economic benefits to local communities, especially for the limited retail capacity of our county. The positive economic benefit does not exist if oil and gas development is excluded from the same areas. Especially if oil and gas is precluded from these areas.</p> <p>Page 4-66 of Alternative E. The document states that minerals under Alternative E would increase the costs of developing the total predicted oil and gas wells by \$.6 billion, compared to Alternative D-no action, because there would be more wells drilled under Alternative E. Such development would potentially create a total cost of</p>	<p>The Proposed Plan/Final EIS recognizes the importance of the oil and gas industry to the economic health of the Uintah Basin. The Plan seeks to strike a reasonable compromise between demands on resources and resource protection, within the framework of the BLM's sustained yield, multiple use mandate.</p>	

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				<p>development of \$12.5 billion over 20 years, or approximately \$623 million over one year. The paragraph itself demonstrates the socio economic values on these properties. It would appear the extractive industry has a far greater economic value to the local economy than does the recreational industry.</p> <p>The document states that "Alternative E would provide the least amount of oil and gas related jobs compared to other action alternatives and slightly more compared to Alternative D-no action." Once must assume this is based on the estimated number of wells for each alternative. Although this may be correct, it does not accurately reflect the impact of management prescriptions proposed in Alternative E. The addition of wells to be drilled on Indian Trust surface and the addition of lands available for oil and gas leasing in the Diamond Mountain area to the RFD prevents realistic comparison of other alternatives to Alternative D. It should be clear that the proposal to close wilderness characteristic areas to oil and gas leasing will drastically reduce future wells under Alternative E when you compare like acres.</p>		
Daggett County	11	5	AQ	<p>We feel it is important to install air quality monitoring stations. We are aware that there is an air quality monitoring station in Vernal. We do not believe that one air quality station accurately reflects the conditions of the Uintah Basin. We encourage BLM Vernal Field Office to request operators apply best available control technology and to install air quality monitoring stations within, or adjacent to, major field development to establish an air quality baseline and to detect deviations from such baseline.</p> <p>A proper baseline should be established. Absence of</p>	<ol style="list-style-type: none"> 1. BLM shares EPA's concern about the lack of monitoring in Eastern Utah and will consider establishing additional monitoring sites in the region as circumstances and resources allow. 2. NEPA no longer requires "worse [sic]- case scenarios. 3. The County is welcome to be a formal cooperating agency on future NEPA analyses. 	

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			such a base line undermines the quality of any such worse-case scenarios. According to air quality expert Howard Vickers, "a slight variation in how data is presented can alter greatly and sometimes unfairly, the analysis of air quality." He states, "Small differences in data or modeling technique can produce substantial problems with the results." It is important to the County, as stake holder, that we be involved in any air quality analysis that is done so that we can be assure that proper modeling and data techniques are used.			
Daggett County	11	6	WSR	<p>Daggett County's well thought out and documented position is that no river segments in the Vernal Field Office planning area should be recommended as suitable for designation in the Wild & Scenic River system on BLM lands. Moreover, Daggett County believes that BLM's process by which it attempted to study Wild & Scenic River suitability is procedurally flawed by its failure to follow NEPA procedures and Wild and Scenic guidelines for determining suitability. Additionally it failed to address and fully consider the impact on the Colorado River Compact.</p> <p>In 1922 the Colorado River Compact granted the liberal right of impoundment on rivers and streams that constitute part of the Colorado drainage system. The Wild & Scenic Rivers Act expressly provided that no pre-existing rights shall be impinged, etc. Therefore, BLM should conclude that no proposed segment in Daggett County is suitable for designation, for the additional reason that precipitations on impoundment that accompany designation would violate the pre-existing rights of impoundment granted under the 1922 Colorado River Compact. Furthermore, it is obvious BLM failed to consider for NEPA purposes, the impact of a suitability designation on the pre-existing right of impoundment</p>	<p>Appendix J of the DRMP/DEIS details the steps undertaken in the eligibility review process including the identification of outstandingly remarkable values as well as the Suitability Considerations by eligible river segments. The BLM complied with all applicable Federal laws, regulations, and policies in the Wild and Scenic Rivers Study Process.</p> <p>The BLM is aware that there are specific State laws relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, BLM is bound by Federal law. As a consequence, there may be inconsistencies that cannot be reconciled. The FLPMA requires that BLM's land use plans be consistent with State and local plans "to the extent practical" where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved. The BLM will identify these conflicts in the FEIS/PRMP so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options.</p> <p>The WSR Act states within the wild, scenic and recreational definitions that they are subject to valid</p>	

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				provided under the 1922 Colorado River Compact. Daggett County cannot support a position recommending any river segment in Daggett County as suitable.	existing rights. 0	
Daggett County	11	7	GRA	<p>UCA 63-38d-401 - Essentially states that if rangeland conditions improve that suspended AUMs would be returned to livestock before additional AUMs would be provided for wildlife. We are concerned that this has not and is not being adhered to with respect to the proposal presented in Alternative E.</p> <p>Because of the value of grazing, state law prohibits permanent closure of grazing allotments and conversion of livestock AUMs to wildlife or other uses. The correct standard is not whether BLM may permanently close an entire grazing allotment, but whether BLM may diminish a single grazing AUM for any reason other than rangeland conditions. The "close an entire grazing allotment" standard misses the mark of House Bill 264 and is inconsistent with Daggett County Public Land Policy and Plans by a serious margin. Those policies and plans are summarized as follows:</p> <p style="padding-left: 40px;">Domestic livestock and forage in the VFO planning area expressed in animal unit months, for permitted active use, as well as the wildlife forage included in that amount, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the VFO planning area, based on an on-the-ground and scientific analysis.</p> <p style="padding-left: 40px;">Where once available grazing forage in the VFO planning area has succeeded in pinion, juniper and woody vegetation and associated biomass, or where rangeland health in the Region has suffered for any</p>	<p>In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolved to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>While County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The</p>	

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			<p>other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, and burning and other mechanical treatments should be applied to remove the woody vegetation and biomass and stimulate the return of the grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the VFO planning area.</p> <p>The land which comprises the grazing district and allotments in the VFO planning area is still more valuable for grazing than for any other use which might exclude livestock grazing. Such other uses include, but are not limited to, conservation of AUMs to wildlife watershed or wilderness uses. Accordingly, animal month units in the VFO planning area may not be relinquished or retired in favor of conservation, wildlife, or other uses.</p> <p>From time to time a bonafide livestock permittee in the VFO planning area, acting in good faith and not to circumvent the intent of the BLM's grazing regulations, may temporarily cease grazing operations without losing his or her permitted AUMs it is proposed in Alternative E to transfer these AUMs to wildlife or to watersheds this is counter to state law, BLM regulations that provide for non use and Daggett County policy. However, BLM-imposed suspensions of use or other reductions in domestic livestock animal unit months should be temporary and scientifically based on rangeland conditions.</p> <p>The RMP fails to articulate a legal or factual basis to reduce domestic livestock and as written, Alternative E violates BLM grazing regulations. BLM may not implement an across the board reduction in permitted</p>	<p>BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p> <p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	

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				<p>grazing use in the RMP. Permitted use includes non-use, and BLM may only reduce permitted grazing use when monitoring or field observations or ecological site inventory or other data demonstrate that grazing use is causing an unacceptable level or pattern of utilization, that rangeland health standards are not being met or that use exceeds livestock carrying capacity. Furthermore, changes in permitted use may only be effected by appeal able decision after consultation, cooperation and coordination with affected grazing permittee. 43 C.F.R 4110.3, 4110.3-2, 4110.3-3. Alternative E's across the board elimination of grazing non-use, therefore, is illegal.</p> <p>The transfer of grazing animal unit months (AUMs) to wildlife for supposed reasons of rangeland health imputed, in each AUM, a reasonable amount of forage for wildlife component.</p> <p>Any grazing animal unit months that may have been reduced in the VFO planning area due to rangeland health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.</p> <p>Moreover, Daggett County wants the Subject Lands to be eligible for prescriptive uses of grazing that are flexible and adaptive to the full extent allowed by relevant BLM grazing regulations, in order to minimize rangeland fire danger, curb noxious weed incursions, and otherwise promote rangeland health and to continue to sustain the social-economies base that grazing provides to the local economy.</p>		
Daggett County	11	8	GRA	Of particular concern is the proposal to transfer livestock AUMs associated with the BVVI to wildlife this proposal is counter to provisions of Utah state law and Daggett	In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of	

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			<p>County Public Land Policy. No where in the Environmental Assessment or the Record of Decision associates with the purchase of these lands is it proposed or even suggested that livestock AUMs would be or could be transferred to wildlife. The BCCI agreement lacks the same language. It has long been the County's position that such agreements were made without public input, were and are illegal, and never had local government input. Alternatives that directly or indirectly converts livestock AUMs to wildlife must not be selected.</p>	<p>the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5. Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case</p>	

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					<p>basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	
Daggett County	11	9	GRA	<p>The phenology criteria described in Alternative A are an appropriate consideration in setting seasons of use for an allotment, but not as an across-the-board prescription for the entire planning area. As used, the RMP does not allow managers or permittees sufficient flexibility to accommodate yearly variations in weather, precipitation, and plant phenology or variations in elevation, topography, or aspect within the identified areas.</p> <p>The RMP proposes to exclude from forage allocations all land that produces less than 25 or 32 pounds of forage</p>	<p>The BLM agrees that changes must be done in consultation, coordination, and cooperation with the permittee. 43 C.F.R. §4110.2-3. The BLM has merely provided criteria to use to when adjustments are required.</p>	

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			per year. See DEIS 2-11. The draft RMP and DEIS do not analyze the effects of doing so even though much of the planning area is a high mountain desert and produces less than 25 pounds of forage a year. These criteria could remove significant volume of forage and acreage from livestock grazing. Range science does not support this proposal and the DEIS inadequately discloses and assesses the effects.. While livestock may use the steep slopes less, wildlife and wild horses graze these areas. By excluding these areas from the forage allocation and calculations, the RMP actually allocates significantly more forage for wildlife and wild horses than is disclosed in the RMP and imposes domestic grazing reductions by removing land from the permit. The grazing rules require that such changes be made in consultation and coordination with the individual permittee rather than unilaterally throughout the planning area. In addition, the grazing rules require consultation with the permittee before amending the permit to exclude land. 4110.4-2. 43 C.F.R.			
Daggett County	11	10	GRA	We object to the extent the Supplement attempts to authorize the retirement of grazing permits and their reallocation to wildlife. This violates the Taylor Grazing Act, 43 U.S.C. § 315, FLPMA, 43 U.S.C. § 1742, and the terms of the Executive Orders No. 6910, 54 I.D. 539 (1934), and No. 6964 (Feb. 5, 1935), which withdrew public lands as chiefly valuable for grazing. Any such decision would also require amending the Presidential Executive Orders, which BLM cannot do, since authority to amend a withdrawal is limited to the Interior Secretary. The Tenth Circuit in Public Lands Council v. Babbitt, 167 F.3d 1287 (10th Cir.1999), aff'd on other grounds, 529 U.S. 728 (2000), held that BLM could not offer permits not to have domestic livestock graze public lands, since grazing permits are limited to domestic livestock. By the	Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.	

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				same token, BLM cannot purport to authorize wildlife grazing by retiring grazing permits in order to allocate the forage for wildlife. This action would also constitute a change in grazing use without following the procedures set out in the BLM grazing rules. 43 C.F.R. §§ 4110.3, 4110.4. It is also inconsistent with the grazing rules which provide for BLM to offer a vacant permit to other qualified permittees. 43 C.F.R. §4130.1-2.	However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates	
Daggett County	11	11	MIN	In 2005, BLM established a policy regarding when to require compensatory mitigation. Instruction Memorandum (IM) 2005-069 Interim Offsite Compensatory Mitigation for Oil, Gas, Geothermal and Energy Rights-of-Way Authorizations (Feb. 1, 2005). The IM assumes that BLM can require onsite compensatory mitigation based on its authority in FLPMA, 43 U.S.C. §1732b (prevent undue and unnecessary degradation) and the Mineral Leasing Act (MLA), 30 U.S.C. § 226(g) (protect surface resources). Only the offsite compensatory mitigation is voluntary on the part of the oil and gas operator. The IM provides that offsite compensatory mitigation is considered only after the other forms of onsite mitigation have been applied, and must be entirely voluntary. The IM assumes, however, that BLM can require onsite compensatory mitigation.	No response required.	
Daggett County	11	12	PRP	Alternative E proposes to close various areas to oil and gas development, mining, grazing, OHV use, etc. These are changes in use on areas of a size that requires notification to Congress.	Comment noted.	
Daggett County	11	13	LAR	Of particular concern is the amount of land closed to oil and gas leasing for protection of wilderness character	Withdrawals are actions specific to mineral entry, not leasing.	

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			<p>lands and ACEC's. A review of the Lands and Realty's section proposals does not list these closures to be reported as withdrawals.</p> <p>FLPMA defines a withdrawal as "withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws. ..." 43 U.S.C. § 170(j). For tracts of lands greater than 5,000 acres, the Interior Secretary must provide Congress a variety of information in order to fully disclose the closure's impacts, costs, and need so that Congress can decide whether to disapprove the withdrawal. A withdrawal also requires public notice and hearing, and consultation with state and local governments. 43 U.S.C. at § 1714(c)(1)-(12), (h); 43 C.F.R. Parts 2300, 2310.</p> <p>By a 2006 Directive from the BLM Director, BLM cannot effect a de facto closure of thousands of acres of public lands to oil and gas leasing without following FLPMA's Section 204 withdrawal procedures: "Except for Congressional withdrawals, public lands shall remain open and available for mineral exploration and development unless withdrawal or other administrative actions are clearly justified in the national interest in accordance with the Department of the Interior Land Withdrawal Manual 603 DM I, and the BLM regulations at 43 C.F.R 2310." BLM Energy and Non-Energy Mineral Policy (April 21, 2006). BLM formally adopted this policy through IM 2006-197. Consequently, the 2006 Energy and Non-Energy Mineral Policy with which BLM must comply, conditions the closure of lands available to mineral exploration and development on FLPMA's withdrawal procedures.</p>	<p>Table 2.1.7 (Lands and Realty Management) identify which lands are being considered for withdrawal in the Proposed Plan as well as the alternatives. Table 2.1.7 also states the following regarding withdrawals:</p> <p>Withdrawals</p> <p>Review existing withdrawals and classifications on BLM-administered lands on a case-by-case basis to determine their need and consistency with the intent of the withdrawals in accordance with section 204(l) of FLPMA, and recommend continuing, modifying, or terminating as applicable (Figure 6).</p> <p>Any lands becoming unencumbered by withdrawals or classifications would be managed according to the decisions made in this RMP. If the RMP has not identified management prescriptions for these lands, they would be managed in a manner consistent with adjacent or comparable public lands within the planning area. If the unencumbered lands fall within two or more management scenarios where future-planning criteria may not be clear, a plan amendment may be required.</p> <p>Non-WSA lands found either to have wilderness characteristics or likely to have wilderness characteristics will be managed according to the direction established in this land use plan. Unlike for WSAs, there is no statutory or policy directive requiring BLM to protect the wilderness characteristics of these non-WSA lands.</p> <p>These non-WSA lands have many resource values,</p>	

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				<p>This direction is consistent with legal precedent. See <i>Mountain States Legal Foundations v. Andrus</i>, 499 F. Supp. 383, 392-93 (D. Wyo. 1980) (BLM could not decline to issue leases in RARE II areas without complying with §204 of FLPMA); <i>Mountain States Legal Foundation v. Hodel</i>, 668 F. Supp. 1466, 1474 (D. Wyo. 1987) (Forest Service violated (FLPMA when it imposed an oil and gas leasing moratorium pending completion of its land use plan). These decisions do not hold the BLM must offer public lands for mineral leasing, only that it must follow FLPMA's withdrawal and reporting procedures, when it wishes to foreclose that land use.</p>	<p>and the draft RMP/EIS considered all available information and a range of alternative prescriptions for how the values and uses of the non-WSA lands would be managed. In Alternative B, most of the non-WSA lands are open to oil and gas leasing subject to standard terms and conditions. On the other hand, Alternative C is designed to provide maximum conservation and protection of natural resources from development and use. Under Alternative C, some non-WSA lands would be closed to leasing and most non-WSA lands would be leased subject to either minor constraints like timing limitations or controls on surface use or major constraints like no surface occupancy. Alternative D reflects existing management direction, and Alternative A (the Preferred Alternative in the draft plan) is designed to provide for a wide variety of resource needs, including mineral resource development and some level of protection of natural resources.</p>	
Daggett County	11	14	VRM	<p>VRM handbook requires the BLM to modify the VRM inventory classifications to fit the underlying land allocations. <i>Southern Utah Wilderness Alliance</i>, 144 IBLA 70, 84 (1998) ("Visual Management Objective classes are developed through the RMP process for all bureau lands.) The approved VRM objective shall result from, and conform with, the resource allocation decision made in the RMP." BLM manual 8400.0-6 a.2 (emphasis supplied).) An existing lease is a resource allocation unless the lease is NSO. Our research shows that the existing leases in these areas are not NSO. Thus, any VRM class proposed must be adjusted to reflect previous resource allocations.</p>	<p>The BLM disagrees that only formally designated lands by Congress can have VRM Classes I or II applied.</p> <p>Chapter 2 of The Proposed RMP/Final EIS provides a summary of specific management directives for the area's visual resources. Chapters 3 and 4 provide additional information. The Visual Resource Management maps for each alternative illustrate the VFM Classes for lands administered by the BLM.</p>	

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				The County opposes any VRM Class I or II's being applied to any lands which have not been determined by Congress to be designated as wilderness. Additionally, such designations should not extend beyond the specific tract to which the VRM Class is applied. As an example, to a view shed.		
C.E. Brooks & Associates, P.C.	151	1	PRP	Furthermore, the Supplement does not conform to law because (1) BLM misinterprets decisions of the United States District Court for the District of Utah, (2) establishes an unviable alternative which applies unlawful de facto WSA-type management prescriptions in violation of its 2003 Settlement Agreement with the State of Utah et al., (3) incorrectly states that livestock grazing is consistent with WSA-type management, and (4) improperly eliminates grazing non-use without following established grazing procedures and standards. BLM, therefore, should not select any portion of Alternative E.	Comment noted.	
C.E. Brooks & Associates, P.C.	151	2	LAR	Finally, the Supplement does not adequately address the impacts to livestock operations and rangeland resources, if Alternative E were adopted. Most livestock permittees could not reach existing range improvements by motor vehicle in order to repair and maintain them. It would be difficult if not impossible to install new range improvement structures and to institute vegetation treatments due to impacts on view and permanent structures. BLM needs to identify the affected range improvements and potential impacts to livestock operations in Daggett County.	Potential impacts to all resources for Alternative E, including livestock operations and rangeland resources, are described in Chapter 4.	
C.E. Brooks & Associates, P.C.	151	3	AA	...the cumulative effects in the Supplement and fully analyze Alternative E's adverse impacts on the environment and the livestock grazing permittees if future or planned range improvement projects were not allowed to proceed. As the draft RMP acknowledges,	Please see Comment ID No. 9-G-19.	

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			rangeland management, including livestock operations, must be able to show that they meet, maintain, or are making progress towards meeting the rangeland health standards. 43 D.F.R. Section 4180.2. In most cases, range structures and vegetation projects are the best way to allow livestock grazing to continue and yet address resource issues. In addition to livestock grazing, rangeland resource conditions reflect many land uses, including wildlife, wild horses, drought, recreation, and oil and gas development.			
C.E. Brooks & Associates, P.C.	151	4	AA	<p>Alternative E will have significant adverse environmental effects, because range improvements that benefits soil, water quality, vegetation, and wildlife habitat, will be prohibited or restricted. The EIS must fully disclose and analyze the cumulative effects on these resources where Alternative E would prohibit or restrict beneficial actions. The DEIS fails entirely by incorrectly assuming no impact on rangeland management. This misconception must be corrected and the DEIS must disclose acres of sage brush that might not be treated, riparian or meadows that may not improve, and pinon-juniper stands that will continue to encroach on sage brush. The DEIS must also discuss the impacts on the sage grouse populations that stand to otherwise benefit from vegetation improvement projects. Some of the non-WSA lands are forested and currently suffer from pine beetle infestations. Classification as a non-WSA will preclude treatment, thus infesting adjacent healthy forests and increasing the risk of catastrophic fire.</p>	<p>The impacts of Alternative E are thoroughly discussed throughout Chapter 4 of the SEIS. See Section 4.22.1.3 for impacts on grazing and livestock management.</p> <p>Classification of non-WSA lands will not preclude fire treatments as stated in the Proposed Plan of Table 2.1.5 (Fire Management) where it states:</p> <p>The use of prescribed fire in non-WSA lands that are managed for wilderness characteristics would be permitted for forest, woodland, and vegetation treatments, and for reduction of fuels, when compatible with the goals and objectives for management of the areas.</p> <p>In Table 2.1.10 (Non-WSA Lands with Wilderness Characteristics) of the Proposed Plan, it states:</p> <p>When compatible with the goals and objectives for management of non-WSA lands with wilderness</p>	

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					characteristics: Permit vegetation and fuel treatments using prescribed fire, mechanical and chemical treatments, and other actions compatible with the Healthy Lands Initiative (HLI).	
C.E. Brooks & Associates, P.C.	151	5	PRP	Thus, to the extent the Supplement undertakes the necessary analysis to determine what "the environmental effects of leasing and development will be to specific wilderness values," the DIES complies with Judge Kimball's decision. Id. Nowhere, however, did the court suggest that BLM must under NEPA and FLPMA requires BLM to adopt protective WSA-type management for these areas. Rather, in doing so, Alternative E violates the terms of BLM's 2003 Settlement Agreement in State of Utah v. Norton, 2:96-CV-0870, 2006 WL 211798 (D. Utah 2006) (appear pending), and is not a viable alternative. BLM may consider an alternative outside the agency's jurisdiction or for which legislation is required but must disclose that fact. 40 C.F.R. Section 1502.14(c). As BLM acknowledged in 2003 and the Secretary of Interior in 1996, BLM's authority to create WSAs expired. If an agency lacks legal authority, it cannot pursue the unauthorized action under a new name.	See comment response 9-G-12.	
C.E. Brooks & Associates, P.C.	151	6	WC	While Alternative E does not use "WSA" or "IMP" terms to define the protective management of the non-WSA lands, there is no question that Alternative E adopts the equivalent of WSA management. Under Alternative E, all non-WSA lands with alleged wilderness character would be managed without exceptions as follows: (1) VRM Class I, (2) Closed to OHV use, (3) Closed to oil and gas leasing, (4) Closed to solid mineral leasing, (5) Closed to disposal of mineral materials, (6) Proposed for withdrawal from mineral entry, (7) Retain public lands ins	Comment noted.	

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				federal ownership, (8) Exclusion area for ROWs, (9) Closed to permitted commercial and personal-use woodcutting and seed collection, and (10) Closed to new road construction. Supplement at 2-21.		
C.E. Brooks & Associates, P.C.	151	7	WC	Under the Settlement, not only may BLM not create Section 202 WSAs, it may not "treat public lands... as WSAs" through its land use planning process. The foregoing management prescriptions impose IMP-level management and unlawfully "treat: the non-WSA lands with alleged wilderness characteristics as de facto WSAs. Alternative E, in fact, adds a catch-all management prescription which actually blatantly carries forward FLPMA Section 603's WSA non-impairment mandate: "No actions would be allowed that would degrade the wilderness characteristics of the non-WSA lands with wilderness characteristics." Id.	Comment noted.	
C.E. Brooks & Associates, P.C.	151	8	PRP	Alternative E's protection of the non-WSA areas as if they were WSAs, therefore, violates the Settlement and proper interpretation of FLPMA agreed to by BLM. As the supreme court has emphasized, NEPA does not obligate an agency to examine actions or effects of actions that are beyond the agency's authority. Dept. of Transport v. Public Citizen, 541 U.S. 752 (2004). Thus, the defacto WSA designation of these areas is not an alternative available to BLM and cannot be considered an option in BLM's land use planning. This does not preclude BLM from developing the Supplement to provide a detailed evaluation and analysis of the impacts of its management decisions on wilderness values. Any consideration, however, needs to also disclose that BLM cannot adopt the alternative without new legislation and without violating the Settlement Agreement.	See comment response 9-G-12.	
C.E. Brooks & Associates,	151	9	PRP	BLM claims it has authority to consider Alternative E based on a general provision in its Land Use Planning	See comment response 9-G-12.	

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P.C.			<p>Handbook which directs BLM to "[I]dentify decisions to protect or preserve wilderness characteristics." H-1601-1. Supplement at 1-2 (citing BLM Handbook H-1601-1). The direction is taken from an expired Instruction Memorandum 2003-275 which allegedly implemented the terms of the Settlement: "Wilderness characteristics are features associated with the concept of wilderness that may be considered in land use planning," and lands with wilderness characteristics "may be managed to protect and/or preserve some or all of those characteristics." This may include protection certain lands in their natural condition and/or providing opportunities for solitude, or primitive unconfined types of recreation. IM 2003-275 at 2.</p> <p>This does not mean that BLM can use the land planning process to impose a wilderness land use allocation for these areas similar to the management of WSAs. The district court expressly affirmed the Settlement in this respect:</p> <p>It make no sense that the same Congress that jealously recognized its sole authority to declare wilderness and that set up two major laws (the Wilderness Act and FLPMA) to accomplish a properly considered exercise of that authority, would have created within one general section (section 202) of FLPMA an open-ended authority on the part of the executive branch of government to create WSAs which, once created, result in de facto wilderness.</p> <p>Norton, 2:96-CV-0870 at 29.5.</p> <p>Rather, through the land use planning process, BLM may consider all available information, including assessments of wilderness character, "to determine the mix of resource use and protection that best serves the FLPMA multiple use mandate." BLM IM 2003-274.</p>		

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C.E. Brooks & Associates, P.C.	151	10	AA	The DEIS analyses of solitude in the wilderness characteristics worksheets also completely fail to take into account the Taylor Flats subdivision contiguous to Lower Flaming Gorge non-WSA area, and the major recreation facilities' nearby on the Green River.	<p>The RMP is a programmatic document that considers management decisions and impacts analyses on a landscape level, not a site-specific level.</p> <p>It should be noted that VRM Class I is associated with Cold Spring Mountain Wilderness Study Area. While it is possible to look from the Taylor Flats Subdivision into this WSA, this would not change the Cold Springs Mountain VRM Classification, nor would it change the classification for the subdivision or the Jarvie Ranch Historical Site.</p>	
C.E. Brooks & Associates, P.C.	151	11	AA	There are two campgrounds near the non-WSA lands that have toilet facilities, fire pits, and motorized traffic. There is also a interpretative recreation center that brings in traffic with related noise incompatible with solitude and primitive recreation. The DEIS only considers "minimal recreation facilities" as consistent with wilderness criteria. Supplement at 2-10. The DEIS also does not address the light impacts from the Taylor Flats subdivision or the Town of Manila, the latter of which affect the Cold Spring Mountain and Mountain Home non-WSA areas.	<p>See comment response 151-O-10.</p> <p>The Upper Green has been recommended for designation as Scenic and was carried forward in the RMP for analysis.</p> <p>Manual 8351, Wild and Scenic Rivers, Policy Program Direction for Identification, Evaluation, and Management, states:</p> <p>"In general, a wide range of agricultural, water management, silvicultural, and other practices or structures could be compatible with scenic river values..."</p>	
C.E. Brooks & Associates, P.C.	151	12	WSA	The DEIS fails to discuss the traffic related impacts on the alleged wilderness values as a result of US Highway 191, a major highway visible from the Mountain Home and Cold Spring Mountain non-WSA areas. There is also a proposed paved, two lane road over the top of the Mountain Home non-WSA area that BLM also failed to	As part of BLM's wilderness characteristics inventory maintenance, BLM performed a combination of data and on-site reviews. This included specific field inspections, Interdisciplinary team review of data such as range files, County and BLM GIS data, and high-resolution 2006 aerial photographs. The BLM's	

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				consider.	findings are described in the 1999-2003 wilderness re-inventory documentation, as well as the 2007 wilderness characteristics review process (findings from this review are available on the Vernal Field Office planning website, and in the Administrative Record). The BLM is confident of high-standard approach used to inventory the public lands and stands by its findings, particularly the findings, which involved wilderness characteristics inventory maintenance. U.S. Highway 191 and the proposed two-lane road are not within any non-WSA lands with wilderness characteristics.	
C.E. Brooks & Associates, P.C.	151	13	WC	In addition, neither the Supplement nor the wilderness characteristics review worksheets rationally explain how wilderness criteria is satisfied when the same non-WSA areas were rejected and dropped from further wilderness consideration by BLM in 1979. With regard to the Mountain Home inventory unit, BLM concluded that man's influence was noticeable in the north and south areas of the unit, and that the unit did not provide for outstanding opportunities for solitude or a primitive or unconfined type of recreation. Utah BLM Initial Inventory Proposals, p.104 (April 1979).	See Response to Comment 151-13-WC.	
C.E. Brooks & Associates, P.C.	151	14	PRP	With regard to Lower Flaming Gorge, formerly known as the Diamond Mountain Inventory Unit, BLM concluded that the area is broken and irregular in shape, bounded and intersected by privately-owned lands, and that man's impact is substantially noticeable in the northern part of the unit.	Comment noted.	
C.E. Brooks & Associates, P.C.	151	15	AA	These areas also feature permanent structures related to ranching, such as irrigation facilities for the meadows, and fences.	See comment response 151-O-4.	
C.E. Brooks & Associates,	151	16	PRP	The record does not show that these developments and intrusions have disappeared. In most cases, there are	Comment noted.	

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P.C.				more, rather than less, permanent structures and evidence of development. Instead BLM appears to have ignored the definition of wilderness when finding there was wilderness character.		
C.E. Brooks & Associates, P.C.	151	17	WSA	This conclusion is supported in the wilderness characteristics review worksheets which show that BLM did not correctly apply wilderness criteria to these non-WSA area. BLM consistently looked to the existence of "opportunities" for solitude, and primitive and unconfined recreation, as opposed to outstanding opportunities for solitude and outstanding opportunities for primitive and unconfined recreation. 16 U.S.C. Section 1131 (c), BLM Handbook H1601-1 at App. Co, p. 12; 2005 DRMP/DEIS at GL-18.	<p>The BLM did properly review wilderness characteristics on non-WSA lands.</p> <p>The FLPMA directs BLM to manage public lands for multiple use and sustained yield (Section 102(a)(7)). As a multiple-use agency, the BLM is required to implement laws, regulations and policies for many different and often competing land uses and to resolve conflicts and prescribe land uses through its land use plans. The BLM's Land Use Planning Handbook requires that specific decisions be made for each resource and use (See, Appendix C, and Land Use Planning Handbook "H-1601-1"). Specific decisions must be included in each of the alternatives analyzed during development of the land use plan. As each alternative is formulated, each program decision is overlaid with other program decisions and inconsistent decisions are identified and modified so that ultimately a compatible mix of uses and management prescriptions result.</p> <p>As part of BLM's wilderness characteristics inventory maintenance, BLM performed a combination of data and on-site reviews. This included specific field inspections, Interdisciplinary team review of data such as range files, County and BLM GIS data, and high-resolution 2006 aerial photographs. The BLM's findings are described in the 1999-2003 wilderness reinventory documentation, as well as the 2007 wilderness characteristics review process (findings from this review are available on the Vernal Field</p>	

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					<p>Office planning website, and in the Administrative Record). The BLM is confident of high-standard approach used to inventory the public lands and stands by its findings, particularly the findings, which involved wilderness characteristics inventory maintenance.</p> <p>The BLM examined about 411,682 acres of lands proposed in the Red Rock Wilderness Act; described in the 1999-2003 BLM wilderness reinventory documentation; and, public nominated areas for the existence of wilderness characteristics. The BLM found that 277,596 acres of these lands contained wilderness characteristics and are proposed for protective management in Alternative E. The remaining 134,086 acres did not have wilderness characteristics.</p>	
C.E. Brooks & Associates, P.C.	151	18	PRP	<p>In 1996, when BLM first initiated the wilderness reinventory, there was no public involvement. This was also true for the 2001 internal review of the "new information" submitted by SUWA and UWC. BLM assured the U.S. Tenth Circuit Court of Appeals that if it later decided to consider revising land use plans to change the management of lands included in the inventory, full public participation rights would be afforded. <i>State of Utah et al. v. Babbitt et al.</i>, 137 F.3d 1193, 1209 (10th Cir. 1998). The court specifically held that a claim to set aside a land use plan revision would lie if public participation was denied, including a challenge to the results of the inventory if the results are utilized in proposing a revision to a land use plan. <i>Id.</i></p>	<p>The Draft RMP presented four alternatives for managing the public lands and resources analyzed the effects of each management approach. None of these alternatives addressed management to protect all non-WSA lands with wilderness characteristics. The Supplement analyzed a fifth alternative which emphasizes protection of all non-WSA lands with wilderness characteristics and analyzes the effects of that management. The Supplement to the RMP has provided the public and opportunity to participate the in the planning process with a 90-day comment period.</p> <p>The BLM has followed the land use planning process and has involved the public throughout. The public participation process is outlined in Chapter 5 of the</p>	

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					DRMP/DEIS. The public was afforded many opportunities for involvement. The BLM acknowledges that the planning process is complex requiring participants to look in many locations within the document to get the answers to questions they may have. This is why the BLM regulations require a 90-day a public comment period rather than the normal 45-day period for an Environmental Impact Statement. Section 5.4 of the PRMP/EIS describes the Public Outreach and Participation process used during the planning process of this document.	
C.E. Brooks & Associates, P.C.	151	19	AA	Under NEPA, BLM needs to consider the full spectrum of the affected environment, including impacts to rangeland resources, wildlife habitat, and livestock grazing. 40 C.F.R. Sections 1508.13, 1508.14. The Supplement needs to consider the direct, indirect, and cumulative impacts to the rangeland environment from prohibiting such treatments. Because the EIS incorrectly assumes no impact, it does not address the impacts of limiting or prohibiting improvements that will otherwise improve riparian areas and meadows, rejuvenate decadent stand of sage brush, or reduce encroachment of woody species (pinon-juniper) to benefit sage brush.	The Draft RMP, along with the Supplement, considers the direct, indirect, and cumulative impacts 22 different resources that include rangeland resources, wildlife habitat, and livestock. Through a wide range of alternatives, the impacts of various management prescriptions are presented and impacts discussed in Chapter 4 of the RMP.	
C.E. Brooks & Associates, P.C.	151	20	AA	Thus, the DEIS should disclose and analyze the impacts of Alternative E on wildlife habitat, sage grouse habitat, and riparian areas. It should also disclose and analyze the impacts of Alternative E on the feasibility of the public lands meeting, making substantial progress towards meeting, or maintaining rangeland health standards. There is no such discussion.	See comment response 151-G-19.	
C.E. Brooks & Associates, P.C.	151	21	GRA	The Supplement must also consider the negative impacts on livestock operations and the related impacts on the custom, culture, and economies of Dagget County and the tri-state region. Alternative E would remove	See comment response 148-O-1.	

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				most of the range management tools from use, thus leading BLM with no option but to reduce livestock and wild horse numbers in order to address rangeland health issues. This too is not disclosed or analyzed.		
C.E. Brooks & Associates, P.C.	151	22	GRA	In order to adequately consider the impacts to livestock grazing, BLM must specifically identify the allotments which would lose non-use AUMs and calculate the number of lost AUMs by allotment. In addition, BLM fails to articulate a legal or factual basis to reduce permitted use, and as written, Alternative E violates BLM grazing regulations.	<p>As required by NEPA, the RMP/EIS analyzed a range of alternatives and management actions to ensure that resources are protected and to ensure that a balanced approach was recommended that allows opportunities for legitimate land uses.</p> <p>The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan.</p>	
C.E. Brooks & Associates, P.C.	151	23	GRA	Furthermore, changes is permitted use may only be implemented by appeal able decision, on a case by case basis, after consultation, cooperation and coordination with the affected grazing permittee. Id. At 41110.3-3. Alternative E's unilateral elimination of grazing non-use, therefore, is illegal.	<p>The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are</p>	

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					<p>subject to reconsideration, modification and termination through revision of the land use plan. See comment response LG45A regarding FLPMA policy to manage the public lands on the basis of multiple use and sustained yield.</p> <p>While it is the goal of the BLM to enhance rangeland health while providing for and recognizing the need for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM to maximize the number of domestic livestock AUMs. According to section 2 of the TGA, it is the objective of the act to regulate the occupancy and use of the Grazing Districts and to preserve these lands.</p>	
Utah State Office of Education, School Land Trust	169	1	SCO	<p>The beneficiaries of the school trust lands are very concerned over access to our lands. Because public land cannot be effectively administered without both legal and physical access; the BLM should refrain from locking up our school trust lands. If and when certain lands of ours must be denied access, the BLM should certainly not isolate us and devalue our land without a stated plan to make us whole.</p> <p>In other words, the settlor of the trust cannot frustrate the purpose of the trust "to support the common schools." If management actions cut off access to school trust land sections, without just compensation, or provisions for exchanges within the RMP, the BLM would be in a position of taking. The takings clause of the United States Constitution prohibits this.</p> <p>It should be noted for all alternatives that, pursuant to the decision of the United States District Court of the District of Utah in Utah v. Andrus, BLM is obligated to grant reasonable access to the State of Utah and its lessees to</p>	<p>The BLM recognizes that under Utah v. Andrus the State is entitled to reasonable access across public lands to school trust lands, including those located within WSAs and other areas where management prescriptions would restrict general public access. Any restrictions such as route closures within these management areas pertain to general public access. Public access to OHV routes on public lands is accomplished through travel management planning. We make a distinction between closures to the public, and State access entitlements and access needs of others that can be addressed as specific needs arise. Land tenure adjustment efforts including pending and anticipated land exchanges between the BLM and the State should properly focus on SITLA lands located within WSAs and other special management areas identified in RMPs. Therefore, the BLM does not believe it is necessary or prudent to globally grant rights-of-way or designated routes to school trust lands for public use. The BLM is happy to work with the State to process any FLPMA Title V ROW</p>	

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			<p>school trust lands notwithstanding any special designation or avoidance/exclusion area for rights-of-way on intervening BLM lands. 486 F. Supp. 995 (D. Utah 1979). In furtherance of this obligation, no existing roads providing access to trust lands should be closed without the consent of SITLA.</p> <p>In STATE OF UTAH V. ANDRUS, the court held that "Given the rule of liberal construction of legislation dealing with school trust land and given the congressional intent of enabling the state to use school lands as a means of generating revenue, Congress must have intended that the state of Utah, or its lessees, have access to school lands encircled by federal land. Act of July 16, 1894, 28 Stat. 107.</p> <p>"Because it was the intent of Congress to provide school trust lands to the state of Utah so that the state could use them to raise revenue, the access rights of the state to said lands, which were encircled by federally owned land, could not be so restricted as to destroy the economic value of the school trust lands, that is, the state had to be allowed access which was not so narrowly restrictive as to render the lands incapable of their full economic development. Act July 16, 1894, 28 Stat. 107.</p> <p>"In respect to state school trust lands encircled by federal land, state lessee's right to gain access was not an existing use on October 21, 1976, the date of enactment of the Federal Land Policy and Management Act and therefore the lessee's activity could be regulated so as to prevent wilderness impairment, but such regulation could not be so restrictive as to constitute a taking. Act July 16, 1894. 28 Stat. 107; Const. Utah art.</p>	<p>application the State feels is necessary to protect ingress and egress to State property.</p> <p>The concern about DRMP/DEIS access restrictions other than those for general public access, such as the designation of right-of-way avoidance or exclusion areas, can be clarified with specific mention in the PRMP/FEIS that these designations are subject to State access entitlements under Utah v. Andrus, as described above.</p>	

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				<p>10. 3, 7; Federal Land Policy and Management Act of 1976, 603 (1), 43 U.S.C.A. 1711(a); Wilderness Act, 2 et seq., 16 U.S.C.A. 1131 et seq. (pg -- 998). All quotes are from STATE OF UTAH V. ANDRUS United States District, d. Utah, C.D., No. C 79-0037, C 79-0307, 486 F. Supp. 995 (1979), pg's. 995, 997, 998, 1001, 1002, 1009, 1010.</p>		
Utah State Office of Education, School Land Trust	169	2	LAR	<p>BLM should re-consider whether it can impose its standards on split estate lands where it does not own the surface. This action diminishes the rights of the surface owner, whether fee or trust lands, to develop their lands in the manner they see fit. So long as the operator of an oil and gas well has obtained a satisfactory surface use agreement that can be included in its Application for Permit to Drill to the BLM, BLM should not unilaterally limit mineral development.</p>	<p>MLE-1R Information regarding leasing and development on split estate lands is found at the following Washington Office website: www.blm.gov/bmp/Split_Estate.htm.</p> <p>Instruction Memorandum No. 2003-202 outlines the policy, procedures and conditions for approving oil and gas operations on split-estate lands. In particular, the BLM will not consider and Application for Permit to Drill or a Sundry Notice administratively or technically complete until the Federal lessee or its operator certifies that an agreement with the surface owner exists, or until the lessee or its operator complies with Onshore Oil and Gas Order No. 1. Compliance with Onshore Oil and Gas Order No. 1 requires the Federal mineral lessee or its operator to enter into good-faith negotiations with the private surface owner to reach an agreement for the protection of surface resources and reclamation of the disturbed areas, or payment in lieu thereof, to compensate the surface owner for loss of crops and damages to tangible improvements, if any. In addition, the BLM will invite the surface owner to participate in the onsite inspection and will take into consideration the needs of the surface owner when reviewing the Application for Permit to Drill. The BLM will offer the surface owner the same level of surface protection BLM provides on Federal surface</p>	

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					(Instruction Memorandum No. 89-201).	
Utah State Office of Education, School Land Trust	169	3	SCO	<p>We are concerned about the cutting off of access and how it devalues in-held school land. For the BLM not to develop oil & gas in its sections also makes it impractical for development to occur on ours, which amounts to an unconstitutional taking. This is true where there are known resources, and may become true for areas in which no drilling has occurred. Alternative E would directly harm us in this area because "about 187,000 acres of State of Utah lands could be rendered uneconomic to lease because they would be surrounded by unleaseable federal lands." (4-31) This includes about 19,200 acres with coal resources that are currently unleased, which would be eliminated from further consideration for coal leasing.</p> <p>If the BLM decides that large areas of its land are off limits for drilling, that can effectively prevent feasible drilling on our in-held sections, amounting to a taking of the mineral value of our subsurface resources.</p> <p>The BLM should consider whether it will allow directional drilling from leases on school sections to access oil and gas lands on BLM property, with no surface occupancy of the BLM property. The BLM has stated "Oil and gas development in these areas would require directional drilling to extract hydrocarbon resources." (4-48). Analysis should be made on how feasible this would be, and what proportion of the resources could be reached in this way.</p>	See comment response 169-G-1.	
Utah State Office of Education, School Land	169	4	SOC	<p>It is important to appreciate that mining is a source of jobs in Daggett, Duchesne, Uintah, and Grand Counties. Alternative E would decrease the total acreage available for mineral materials by 11% (4.8.2.1), and that would</p>	The Proposed RMP/Final EIS has an expanded discussion of the economic impacts of the plan's minerals decisions. The impacts to national energy consumption and commodity prices are beyond the	

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Trust			<p>significantly impact these jobs. This would reduce future potential employment in the area as well. When considering closing 19% total acreage, the BLM needs to remember that the drilling and completion of one well creates 14.8 jobs (4.10.2.4.4).</p> <p>As the BLM has stated, "Direct impacts of mineral resource decisions on tar sands, gilsonite, phosphate, oil shale, and minerals materials development would have a short-term, adverse socioeconomic impact on the minerals and every industries and on the local economies that support these industries, resulting from a decrease in the amount of mineral materials available for extraction and commercial sale. The reduction of minerals availability compared to Alternative D No-action, would also indirectly decrease the royalties paid to the federal government and/or the state of Utah." (4-37)</p> <p>This decline in employment and person income in the local economy would have significant negative impacts on the local area. If fewer lands are available for leasing and development of solid mineral resources - tar sands, oil shale, gilsonite, phosphate, and mineral materials - tax revenues for the state and local communities would be lower, as would the royalty revenues to the trust.</p> <p>The BLM in Alternative E would also have a 198% increase of VRM Classes 1 and 2 management. What does that mean? "An increase in the number of acres managed under VLM classes 1 & 2 objectives would have an adverse impact on mineral resource development, with direct, adverse impacts that would include increased production costs associated with mineral development, and the exclusion of mineral</p>	scope of the current planning effort.	

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				development from areas where mineral activities would not meet VRM objectives. An increase in the # of acres VRM Classes I and II would also lead to a decrease in the number of locations where potential wells could be drilled. The loss of potential drilling locations could indirectly lead to a decrease in the supply of oil and natural gas produced in the VPA." (4-42)		
Utah State Office of Education, School Land Trust	169	6	LAR	<p>The beneficiaries of the school trust lands are very concerned over access to our lands. Because public land cannot be effectively administered without both legal and physical access; the BLM should refrain from locking up our school trust lands. If and when certain lands of ours must be denied access, the BLM should certainly not isolate us and devalue our land without a stated plan to make us whole.</p> <p>In other words, the settlor of the trust cannot frustrate the purpose of the trust "to support the common schools." If management actions cut off access to school trust land sections, without just compensation, or provisions for exchanges within the RMP, the BLM would be in a position of taking. The takings clause of the United States Constitution prohibits this.</p> <p>It should be noted for all alternatives that, pursuant to the decision of the United States District Court of the District of Utah in Utah v. Andrus, BLM is obligated to grant reasonable access to the State of Utah and its lessees to school trust lands notwithstanding any special designation or avoidance/exclusion area for rights-of-way on intervening BLM lands. 486 F. Supp. 995 (D. Utah 1979). In furtherance of this obligation, no existing roads providing access to trust lands should be closed without the consent of SITLA.</p>	SOC-1R The BLM's policy, as required by the Cotter decision (State of Utah v. Andrus, 10/1/79), is that "the State must be allowed access to the State school trust lands so that those lands can be developed in a manner that will provide funds for the common school" This decision confined the issue of access to situations directly involving economic revenues generated for the school trust. The recreation restrictions do not prohibit the State from reasonable access to its lands for economic purposes through separate permit authorization as specified by the Cotter decision. Routes to State sections may not have been identified for recreational purposes due to resource conflicts or actual route conditions.	

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			<p>In STATE OF UTAH V. ANDRUS, the court held that "Given the rule of liberal construction of legislation dealing with school trust land and given the congressional intent of enabling the state to use school lands as a means of generating revenue, Congress must have intended that the state of Utah, or its lessees, have access to school lands encircled by federal land. Act of July 16, 1894, 28 Stat. 107.</p> <p>"Because it was the intent of Congress to provide school trust lands to the state of Utah so that the state could use them to raise revenue, the access rights of the state to said lands, which were encircled by federally owned land, could not be so restricted as to destory the economic value of the school trust landsthat is, the state had to be allowed access which was not so narrowly restrictive as to render the lands incapable of their full economic development. Act July 16, 1894, 28 Stat. 107.</p> <p>"In respect to state school trust lands encircled by federal land, state lessee's right to gain access was not an existing use on October 21, 1976, the date of enactment of the Federal Land Policy and Mangement Act and therefore the lessee's activity could be reguatled so as to prevent wilderness impairment, but such regulation could not be so restrictive as to constitute a taking. Act July 16, 1894. 28 Stat. 107; Const. Utah art. 10. 3, 7; Federal Land Policy and Mangement Act of 1976, 603 (1), 43 U.S.C.A. 1711(a); Wilderness Act, 2 et seq., 16 U.S.C.A. 1131 et seq. (pg -- 998). All quotes are from STATE OF UTAH V. ANDRUS United States District, d. Utah, C.D., No. C 79-0037, C 79-0307, 486 F. Supp. 995 (1979), pg's. 995, 997, 998, 1001, 1002, 1009, 1010.</p>		

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Utah State Office of Education, School Land Trust	169	7	MLE	<p>We are concerned about the cutting off of access and how it devalues in-held school land. For the BLM not to develop oil & gas in its sections also makes it impractical for development to occur on ours, which amounts to an unconstitutional taking. This is true where there are known resource, and may become true for areas in which no drilling has occurred. Alternative E would directly harm us in this area because "about 187,000 acres of State of Utah lands could be rendered uneconomic to lease because they would be surrounded by unleaseable federal lands." (4-31) This includes about 19,200 acres with coal resources that are currently unleased, which would be eliminated from further consideration for coal leasing.</p> <p>If the BLM decides that large areas of its land are off limits for drilling, that can effectively prevent feasible drilling on our in-held sections, amounting to a taking of the mineral value of our subsurface resources.</p> <p>The BLM should consider whether it will allow directional drilling from leases on school sections to access oil and gas lands on BLM property, with no surface occupancy of the BLM property. The BLM has stated "Oil and gas development in these areas would require directional drilling to extract hydrocarbon resources." (4-48). Analysis should be made on how feasible this would be, and what proportion of the resources could be reached in this way.</p>	<p>The BLM does provide for reasonable access to all SITLA lands under all alternatives. Information will be added to Chapter 2, Lands and Realty, Management Common to all action alternatives, that states that reasonable access to State land would be provided including across BLM lands within avoidance and exclusion areas for rights-of-way as specified by the Cotter decision (Utah v. Andrus, 10/1/79).</p> <p>The BLM will consider whether it will allow directional drilling from leases on school sections to access oil and gas lands on BLM property. It is up to the lease holder to determine the feasibility of directional drilling projects. The proportion of the resource that could be reached are dependent upon a number of factors (i.e. geology of the subsurface, capability of the drilling equipment, skill level of the drilling crew, economics of directional vs. straight drilling, etc.)</p>	X
Utah State Office of Education, School Land Trust	169	8	LAR	<p>BLM should re-consider whether it can impose its standards on split estate lands where it does not own the surface. This action diminishes the rights of the surface owner, whether fee or trust lands, to develop their lands in the manner they see fit. So long as the operator of an oil and gas well has obtained a satisfactory surface use</p>	<p>MLE-1R Information regarding leasing and development on split estate lands is found at the following Washington Office website: www.blm.gov/bmp/Split_Estate.htm.</p> <p>Instruction Memorandum No. 2003-202 outlines the</p>	

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				<p>agreement that can be included in its Application for Permit to Drill to the BLM, BLM shouldnot unilaterally limit mineral development.</p>	<p>policy, procedures and conditions for approving oil and gas operations on split-estate lands. In particular, the BLM will not consider and Application for Permit to Drill or a Sundry Notice administratively or technically complete until the Federal lessee or its operator certifies that an agreement with the surface owner exists, or until the lessee or its operator complies with Onshore Oil and Gas Order No. 1. Compliance with Onshore Oil and Gas Order No. 1 requires the Federal mineral lessee or its operator to enter into good-faith negotiations with the private surface owner to reach an agreement for the protection of surface resources and reclamation of the disturbed areas, or payment in lieu thereof, to compensate the surface owner for loss of crops and damages to tangible improvements, if any. In addition, the BLM will invite the surface owner to participate in the onsite inspection and will take into consideration the needs of the surface owner when reviewing the Application for Permit to Drill. The BLM will offer the surface owner the same level of surface protection BLM provides on Federal surface (Instruction Memorandum No. 89-201).</p>	
Utah State Office of Education, School Land Trust	169	9	VRM	<p>It should be noted that in creating protected view-shed corridors, the BLM has no rights to control what is done on school lands, even if they can see it. We are concerned that the BLM states that "Indirect impacts of visual resource decisions on mineral development would be adverse. A decrease in the number of potential oil and gas wells would lead to a decrease in royalties paid to the federal government and/or the state of Utah."</p>	<p>Non-BLM lands could be indirectly impacted by RMP decisions both positively and negatively. The analysis in Chapter 4 of the PRMP/FEIS has been modified accordingly.</p> <p>For specifics regarding the impacts on mineral revenue see comment 120-101.</p> <p>The BLM does provide for reasonable access to all SITLA lands under all alternatives (Chapter 2). Information has been added will be added to Chapter 2, Lands and Realty, Management Common to all</p>	X

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					<p>action alternatives, that states that reasonable access to State land would be provided including across BLM lands within avoidance and exclusion areas for rights-of-way as specified by the Cotter decision (Utah v. Andrus, 10/1/79).</p> <p>The results of the Utah State University public lands survey and the University of Utah study on the economic impacts of oil and gas development in the Uintah Basin have been incorporated into the Proposed RMP/Final EIS. Chapter 3 summarizes the public lands survey results, and an Appendix has been added showing the raw results for the three counties in the planning area. Data from the University of Utah study has been extensively incorporated into Chapter 4 analysis.</p> <p>The Proposed Plan/Final EIS recognizes the importance of the oil and gas industry to the economic health of the Uintah Basin. The Plan seeks to strike a reasonable compromise between demands on resources and resource protection, within the framework of the BLM's sustained yield, multiple use mandate.</p>	
Utah State Office of Education, School Land Trust	169	10	LAR	<p>The BLM has stated that "criteria-based land exchanged does not require identification of parcels in the RMP." (2-20) The need for BLM to give priority to state-federal land exchanges has been recognized by BLM in the BLM Manual:</p> <p>"The BLM recognizes that resolving these land ownership and management issues is an important public purpose and gives priority to the exchange of state trust lands out of areas designated by the federal government for special purposes."</p>	<p>The quote made by the commenter as well as the acreage figures comes from the Price Planning Area (PPA). Consequently, the Vernal Field Office is unable to respond specifically to these issues as they are outside of the Vernal Planning Area boundaries.</p> <p>For the VFO, impacts of federal lands on inheld SITLA lands are discussed in Section 4.12 (Socioeconomics).</p>	

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				<p>As stated on page 2-23 of the Supplement, it is being recommended that lands in special designations such as ACECs be retained in public ownership which would take approximately 1,490,000 acres in the PPA off the table as exchange possibilities for the 208,000 acres of SITLA lands within special designations, or approximately 45% of SITLA's in-holdings in the PPA.</p> <p>The BLM has an obligation to include in its planning an effective and timely means of addressing the impact of federal land actions on inheld state trust lands. Without inclusion of such a plan, the trust opposes the creation of any new special designations and would support the no-action alternative (Alternative A) or the development alternative (Alternative D).</p>		
Ute Tribe-Energy & Minerals Department	172	1	WC	Although the Vernal Supplemental RMP specifically recognizes that development would occur on valid and existing leases within wilderness characteristics areas, the document fails to recognize that development also has the potential to occur within wilderness characteristics areas on lands that are held in split estate.	The supplement carried forward criteria from the DRMP. One of the planning criteria in Section 1.4.1.2 is that the revised RMP would recognize valid existing rights	
Ute Tribe-Energy & Minerals Department	172	2	WC	As discussed in the previous section, the Vernal Supplemental RMP clearly recognizes that oil and gas development would likely occur on valid and existing leases within wilderness characteristics areas, however, the document fails to analyze the impact of access restrictions in wilderness characteristics areas to development of lands adjacent to these areas. In some cases, Tribal lands, which include Tribal minerals, have been used to form the boundary of wilderness characteristics areas (see Desolation Canon and Wolf Point wilderness characteristics areas on Figure 20e).	BLM does not deny access to inholdings when there is no other access. BLM also does not deny access if related to another right. Summary of Comments for Vernal RMP/EIS LR12A	

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				The BLM should recognize that ROWs could be necessary within wilderness characteristics areas to access Tribal lands/minerals. For example in order to access Tribal and Allottee minerals east of Willow Creek access could be needed through Wolf Point wilderness characteristics area.		
Ute Tribe-Energy & Minerals Department	172	3	MIN	<p>As discussed in Section 4.21.2.3 - Impacts of Lands and Realty Management Decisions on Non-WSA Lands with Wilderness Characteristics (see pg. 4-153), under Alternative E, non-WSA lands with wilderness characteristics would be managed as ROW exclusion areas. Exclusion from future ROW development would protect the natural character of the landscape of all the non-WSA lands with wilderness characteristics.</p> <p>The Tribe recognizes that the BLM is encouraged to preserve land in its natural condition. The Tribe also recognizes that a parcel of land cannot be preserved in its natural character and mined at the same time. However, case law supports the Tribe's claimed right of access. In fact, without access the Tribe could not develop its minerals in any fashion and they would become economically ineffectual.</p> <p>Based upon this information, the Tribe requests that the BLM consider adding the following information to the Vernal Supplemental RMP.</p> <p style="padding-left: 40px;">Where necessary, the BLM would grant reasonable access across Federal lands with wilderness characteristics to provide for development of adjacent Tribal lands and minerals.</p> <p style="padding-left: 40px;">Where necessary, the BLM would grant reasonable access to Federal lands with wilderness characteristics</p>	The BLM does provide for reasonable access to all non-BLM managed lands under all alternatives. Information will be added to Chapter 2, Lands and Realty, Management Common to all action alternatives, that states that reasonable access to non-BLM managed land would be provided including across BLM lands within avoidance and exclusion areas for rights-of-way.	X

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				to provide for development of Tribal/Indian Allotted minerals, which are held in split estate (i.e., Tribal minerals and Federal surface with wilderness characteristics areas).		
Ute Tribe-Energy & Minerals Department	172	4	SOC	<p>Although a brief statement regarding Environmental Justice is included in the comparison of impacts within the Vernal Supplemental RMP (see page 2-22), neither Chapter 3 (Affected Environment) nor Chapter 4 (Environmental Consequences) mention Environmental Justice. As required by EO 12898, the effects of implementing each alternative, including Alternative E, should be fully analyzed in detail.</p> <p>In the Environmental Justice section (see pg. 2-22), which is within Table 2.5 - Summary of Impacts, it states:</p> <p style="padding-left: 40px;">Indian tribes would benefit from revenues derived from rights-of-way grants to oil and gas industry, but traditions and religious sites could be adversely impacted. Minerals development could adversely reduce or replace tribal livestock grazing, decrease opportunities for hunting and gathering, and ceremonial worship.</p> <p>In addition to this statement, the BLM should include information regarding the potential adverse effects that managing lands in a manner that protects their wilderness values could have on Tribal members. All points emphasized within the summary comparison of impacts should then be expanded upon in Chapter 4 of the Vernal Supplemental RMP in a manner comparable to that included in the Vernal Draft RMP/EIS</p>	<p>The Proposed RMP/Final EIS has an expanded discussion in Chapters 3 and 4 of Environmental Justice populations and the expected impacts of plan decisions on these populations.</p> <p>The commenter provides no evidence suggesting how managing lands to preserve, protect and maintain wilderness characteristics would have an adverse impact on Tribal members.</p>	
State of Utah	189	1	AQ	The state encourages the BLM Vernal Field Office to impose these emissions standards as lease conditions for all new and relocated engines, and as conditions of	The BLM will consider incorporating these items as COAs. However, the state air quality agency is the authority for setting emissions standards in Utah.	

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				approval for all new APDs. These standards would positively impact air quality, facilitate continued action, and would be consistent with neighboring state jurisdictions.	BLM can not unilaterally impose emissions limits on any source without the permission and cooperation of the UDAQ.	
State of Utah	189	2	WSR	The state is also concerned about suitability findings for those streams where there are significant water diversions upstream of the subject reach, most of which are for irrigation. This is particularly true for the Green and White river drainages. While federal reserved water rights are traditionally not asserted prior to designation, those stream reaches found suitable are managed as if they were designated. This "managed-as-if-designated" approach has the unfortunate and inaccurate potential to cause managers to believe a de facto federal reserved water right exists for those reaches, and thereby to impact the future management and utilization of valid existing water rights above, below and even within, the reaches. The state strongly believes that the suitability determination phase is the proper time to begin negotiations concerning the extent of any future federal reserved water rights, and requests the BLM to do so as the Final Vernal RMP is prepared. As a minimum, the State Engineer requests the BLM catalog all valid, existing water rights which may be affected by designation as part of the Final EIS.	According to the "Wild and Scenic River Review in the State of Utah Process and Criteria for Interagency Use" (July 1996), Congress has allowed for the existence of some human modification of a riverway, the presence of impoundments or major dams above or below a segment under review (including those that may regulate the flow regime through the segment). The existence of minor dams, diversion structures, and rip-rap within the segment shall not by themselves render a reach ineligible. Barring congressional action, there is no effect on water rights or in-stream flows related to suitability findings made in a land use plan decision. Even if Congress were to designate rivers into the National Wild and Scenic Rivers System, any such designation would have no effect on existing water rights. Section 13(b) of the Wild and Scenic River Act states that jurisdiction over waters is determined by established principles of law. In Utah, the State has jurisdiction over water. Although the Wild and Scenic Rivers Act implies a Federal reserved water right for designated rivers, it does not require or specify any amount, and as noted above, confirms that Utah has jurisdiction over water rights. The BLM would be required to adjudicate the water right, in the same manner as any other entity, by application through State processes. Thus, for congressionally designated rivers, the BLM may assert a Federal reserved water right for appurtenant and unappropriated water with a priority date as of the date of designation (junior to all existing rights), but only in the minimum amount	

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					<p>necessary to fulfill the primary purpose of the reservation.</p> <p>Based on the information given in this response, the BLM declines to provide the requested catalog of affected valid existing water rights, as the federal water right would be junior to the valid existing rights, and therefore have no affect on them.</p>	
State of Utah	189	3	GRA	<p>For these reasons, the state is extremely concerned about the tenor and content of statements in the Supplement which assert that grazing and wildlife are not mutually beneficial, and that elimination of grazing will automatically improve rangeland health. For example, within the discussion for Forage on pages 2-5 to 2-7, BLM proposes that, in the event of a loss of forage or a demonstrated conflict between livestock and wildlife, livestock numbers would be reduced. Similarly, the discussion of impacts on pages 4-31 to 4-32 indicates that "forage production would likely increase...resulting in creased feed...and an improvement in rangeland health," through a reduction in grazing AUMs. Further, on page 4-91, the Supplement states that "grazing is a threat to all listed and most sensitive species." The state opposes the implication, contained within these statements, that wildlife are, a priori, better for the health of the range than a proper, balanced program of grazing by livestock and use by wildlife. These statements contravene the principles mentioned above.</p>	<p>The sections cited do not imply that wildlife is, a priori, better than livestock. The different alternatives present a range of forage allocations between livestock and wildlife if adjustments in AUMs are made.</p>	
State of Utah	189	4	WL	<p>On a related note, the state believes the BLM should only employ the term "critical habitat" when referring to the legal habitat designations for endangered and threatened species under the Endangered Species Act. The state requests that the BLM use the "crucial habitat"</p>	<p>Chapter 1 of the PRMP/FEIS provides a discussion of the terms "critical" vs. "crucial" habitat.</p>	

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				designations mapped by the Division of Wildlife Resources solely as descriptive wildlife habitat designations, not as automatic exclusion zones for other multiple uses.		
State of Utah	189	5	PRP	The State of Utah has reviewed BLM's inventory of and proposed management for lands identified as possessing wilderness characteristics.	Comment noted.	
State of Utah	189	6	WC	The state does not believe that BLM has the authority to create a category of management based solely on the characteristics of wilderness. The characteristics of wilderness, or their constituent elements, were first recognized by the Wilderness Act of 1964 and passed to the BLM within the provisions of Section 603 of the Federal Land Policy and Management Act of 1976. The authority within Section 603 has now expired b its own terms. The state recognizes that recent court decisions have affirmed BLM's information about these characteristics in its documents prepared under the National Environmental Policy Act.	Please see Response to ID No. G-144-Comment 8.	
State of Utah	189	7	PRP	The state cautions BLM against an overly broad reading of these decisions. Management authority must be derived solely from the specific provisions of the Federal Land Policy and Management Act, (e.g. Areas of Critical Environmental Concern) or other specific federal legislation, and it is incumbent upon the BLM to carefully define its detailed legal rationale and reasoning for its proposed management policies, provisions and categories.	See comment response 154-B-6.	
State of Utah	189	8	WC	Thus, the state asks BLM to provide a detailed explanation of the rationale and authority for management of lands solely because of wilderness characteristics, and why such management does not circumvent the provisions of the statutorily required wilderness review process.	Please see Response to ID No. G-174-Comment 3	

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State of Utah	189	9	WC	In addition to these cautions, the state requests that, in weighing management options for the Final RMP, BLM give strong consideration to recommendations submitted by local government and not manage lands to protect wilderness character where such management would, in the opinion of local governments, be contrary to existing uses and the interests of local residents.	Comment Noted.	
State of Utah	189	10	CCR	As more specifically set forth below, SITLA believes that the Supplement fails to address adequately these two major issues: the impact of BLM management decisions on state trust lands, and the need for a substantially more robust program for land tenure adjustments between the BLM and the State of Utah. BLM has an obligation to include in its planning an effective and timely means of addressing the impact of federal land actions on in-held state trust lands.	The Supplement, along with the Draft RMP, constitutes the complete DRMP. Impacts of BLM decisions on state trust lands are discussed in Section 4.12 (Socioeconomics). Section 4.6.1.1 of the Draft RMP provides a thorough discussion of land tenure adjustments between the BLM and the State of Utah.	
State of Utah	189	11	WC	The lack of vegetation management could result in significant winter range loss for big game, and decreased crucial habitat for sage-grouse. Moreover, vegetation treatments by natural processes may also be detrimental to sage-grouse populations, could reduce big game habitat, and limit the ability of UDWR to conduct habitat restoration. While prescribed fire would be allowed in the 25 areas classified as non-WSA lands with wilderness characteristics, other treatment methods including mechanical and chemical techniques may be more appropriate in these areas, especially where cheatgrass and other invasive species are present.	Comment Noted.	
State of Utah	189	12	WL	The inability to implement habitat restoration projects on BLM lands with wilderness characteristics would impede the UPCD's ability to restore and maintain healthy watersheds.	Habitat restoration projects will be able to occur on non-WSA lands with wilderness characteristics. BLM has provided in the Proposed RMP/Final EIS in Table 2.1.10, the following management direction: "When compatible with the goals and objectives for management of non-WSA lands with wilderness	

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				characteristics: Permit vegetation and fuel treatments using prescribed fire, mechanical and chemical treatments, and other actions compatible with the Healthy Lands Initiative (HLI).	
State of Utah	189	13	REC	Red Mountain/Sand Pockets: This area is shown as being closed to OHV use, yet the document acknowledges the designated Red Mountain Trail. Also, there are several trails in the Sand Pockets area that are heavily used and may someday soon be connected to Steinke State Park. We recommend this area be reclassified as "limited" rather than "closed".	Within the Range of Alternatives the Sand Pockets area would be Open, Limited, or closed, and therefore evaluates the area as "limited". (See Alternative B, Figure 26.)
State of Utah	189	14	REC	Nine Mile: There is an existing road that constitutes the north boundary of the southern portion of the Desolation Non WSA lands with wilderness characteristics area. This road continues east and south across Nine Mile Creek and the proceeds west into Carbon County to Horse Bench. This is a portion of an existing loop trail that is highly prized by OHV users. The Price Field Office's Draft RMP has their portion of this trail open to motorized use. We think the Vernal part of this trail should remain open to preserve continuity between the plans. Also, it is noted on this map that the route up Frank Canyon has been left open for motorized travel as part of this trail.	<p>The Vernal Field office will work closely with the Price field office where possible to resolve concerns dealing with a comprehensive travel management plan.</p> <p>Site specific NEPA will be required for proposed trails/routes.</p> <p>The Comprehensive travel management plan for the VPA will be completed within 1-5 years of the Record of Decision, and is therefore beyond the scope of this document.</p>
State of Utah	189	15	WC	Each determination of wilderness characteristics notes that the VFO "determined appropriate setback distances for pipelines, roads, and other ROWs." Other Field Offices did not adopt this approach. Please explain the difference in approaches. With respect to setbacks, some but not all non-WSA areas identified as possessing wilderness characteristics were reduced in size because of buffers. Compare Diamond Mountain and Daniels Canyon. Please clarify if all proposed areas	As protocol for all VFO wilderness characteristic reviews, the Interdisciplinary Team determined appropriate set-back distances for pipelines, roads, and other R-O-Ws. The VFO cannot speak for other office approaches. All areas were treated similarly.

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				were treated similarly, and if not, why different treatment was appropriate.		
State of Utah	189	16	WC	Where these analysis areas depend on the monument for satisfaction of the 5,000 acre criteria, the existence of a fence appears to detract from wilderness values. Please explain what kind of fence separates the Monument from adjacent BLM lands and why the existence of this fence does not compromise values dependant on adjacency.	A Vernal Field Office Interdisciplinary Team reviewed the Non-WSA areas including Human-made disturbances, such as fencing. Where it was determined that the Human-made disturbances were substantially unnoticeable and did not diminished the naturalness of the area, the areas were then determined to have wilderness characteristics.	
State of Utah	189	17	AA	Please clarify which area were excluded, why, and how the features or activities that contradict wilderness character would impact "outstanding opportunities for solitude or a primitive and unconfined type of recreation" on adjacent lands.	The Proposed Plan column in Table 2.1.10 as well as Section 4.22 in the PRMP/EIS clarifies which non-WSA lands with wilderness characteristics were brought forward. The rationale for the decision will be addressed in the FEIS/Record of Decision.	
State of Utah	189	18	AA	The review form does not identify any areas as having wilderness characteristics, but the attached map and Box 3.b. do. Please either substantiate any inference from the map that wilderness characteristics exist, or revise the map to indicate that no wilderness characteristics exist.	Page 2-21 of the Supplement to the Draft RMP clearly identifies the non-WSA lands with wilderness characteristics that are analyzed as under Alternative E.	
State of Utah	189	19	AA	The review form indicates that a juniper removal project is scheduled for 2007. Please clarify how this will be undertaken to avoid interfering with the appearance of naturalness within the treatment area.	See comment response 151-O-4. Any potential surface disturbing proposals will require site-specific NEPA analysis and documentation.	
State of Utah	189	20	AA	The map shows numerous routes in sections 27-28 and 33-35 of T3N, R24E. Please discuss these routes and the extent to which they compromise the appearance of naturalness or "outstanding opportunities for solitude or a primitive and unconfined type of recreation".	The RMP is a programmatic document that considers management decisions and impacts analyses on a landscape level, not a site-specific level.	
State of Utah	189	21	AA	It is difficult to distinguish external nominations from BLM internal nominations. The inability to distinguish areas complicated any attempt to evaluate VFO's analysis. Please be more specific regarding nomination areas and the location of features within these areas.	All of the non-WSA lands with wilderness characteristics are external nominations. Locations for these lands are analyzed in Alternative E and are clearly portrayed in Figure 20.	

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State of Utah	189	22	AA	Cherry stemming roads that are "regularly used by trucks hauling water from the White River for oil and gas exploration and development" would not appear sufficient to protect "outstanding opportunities for solitude or a primitive and unconfined type of recreation." Please clarify how regular truck use can occur without compromising these values.	There are no non-WSA lands proposed in the Proposed Plan for the PRMP/FEIS where roads access the White River. Should such roads exist to access the White River, the "cherry stemming" land management technique would be used by allowing ingress and egress without compromising a special designation. Cherry stemming localized the area where vehicle traffic is conducted to very small stretches along the river. "Outstanding opportunities for solitude or a primitive and unconfined type of recreation" is still possible with the remaining portions of the river.	
State of Utah	189	23	AA	Based on the review form, it appears that there are 58 pending APDs within this area. This level of development does not appear compatible with "outstanding opportunities for solitude or a primitive and unconfined type of recreation". Please clarify how VFO would protect "outstanding opportunities for solitude or a primitive and unconfined type of recreation" in light of this level of development, including the ancillary facilities such as roads, pipelines and compressor stations that appear reasonably foreseeable.	The area is question is not being brought forward as a non-wilderness area with wilderness characteristics in the Proposed Plan of the RMP/EIS because of the lands are currently leased as well as the current and the high potential for future development.	
State of Utah	189	24	AA	It appears that an existing airstrip and several wells are within area 1, but have been cherry stemmed out. Please clarify how continued use of these facilities would be managed to protect "outstanding opportunities for solitude or a primitive and unconfined type of recreation."	See comment response 189-O-23.	
Uintah County	190	1	PRP	Adopting Alternative E would violate the restrictions of BLM's own Instruction Memorandum No. 2003-275, which states, "it is no longer BLM policy to continue to make formal determinations regarding wilderness character, designate new WSAs through the land use	See comment response 154-B-6.	

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				planning process, or manage any lands --[except Section 603 WSAs] in accordance with the non-impairment standard prescribed in the IMP [Interim Management Policy for WSAs]."		
Uintah County	190	2	PRP	The proposed Alternative E's restrictive management standards that would effectively treat Subject Lands as if they are WSAs, are largely built around BLM's 1999 Utah Wilderness Reinventory. Yet in 2003 the Department of Interior promised the State of Utah, among other things, not to use the 1999 Utah Wilderness Reinventory to manage public lands "as if" they are, or may become, WSAs. Utah v. Norton settlement agreement of April 11, 203 at p. 13 para 14.	The Utah v. Norton Settlement Agreement does not affect BLM's authority to manage public lands. This Agreement merely remedied confusion by distinguishing between wilderness study areas established under FLPMA §603 and those lands required to be managed under §603's non-impairment standard, and other lands that fall within the discretionary FLMPA §202 land management process. See also comment response 154-B-6.	
Uintah County	190	3	PRP	The State of Utah's policy and plan for managing BLM lands is substantially set forth in Utah Code 63-38d-401(6), (7) and (8). A copy of that portion of the Utah Code (Exhibit 2)(is enclosed for your reference. It is self evident that the management prescriptions and restrictions in the proposed Alternative E are not inconsistent with the standards and policies set forth in this State statutory provision.	See comment response 150-B-2.	
Uintah County	190	4	MIN	The document states that "Alternative E would provide the least amount of oil and gas related jobs compared to other action alternatives and slightly more compared to Alternative D -- No Action." One must assume this is based on the estimated number of wells for each alternative. Although this may be correct, it does not accurately reflect the impact of management prescriptions proposed in Alternative E. The addition of wells to be drilled on Indian Trust surface and the addition of lands available for oil and gas leasing in the Diamond Mountain area to the RFD prevents realistic comparison of other alternatives to Alternative D. It	Comment noted.	

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				should be clear that the proposal to close wilderness characteristic areas to oil and gas leasing will drastically reduce future wells under Alternative E when you compare like acres.		
Uintah County	190	5	WSR	The Wild & Scenic Rivers Act expressly provided that no pre-existing rights shall be impinged, etc. Therefore, BLM should conclude that no proposed segment in Uintah County is suitable for designation, for the addition reason that prohibitions on impoundment that accompany designations would violate the pre-existing rights of impoundment granted under the 1922 Colorado River Compact.	Barring congressional action, there is no effect on water rights or in-stream flows related to suitability findings made in a land use plan decision. Even if Congress were to designate rivers into the National Wild and Scenic Rivers System, any such designation would have no effect on existing water rights. Section 13(b) of the Wild and Scenic River Act states that jurisdiction over waters is determined by established principles of law. In Utah, the State has jurisdiction over water. Although the Wild and Scenic Rivers Act implies a Federal reserved water right for designated rivers, it does not require or specify any amount, and as noted above, confirms that Utah has jurisdiction over water rights. The BLM would be required to adjudicate the water right, in the same manner as any other entity, by application through State processes. Thus, for congressionally designated rivers, the BLM may assert a Federal reserved water right for appurtenant and unappropriated water with a priority date as of the date of designation (junior to all existing rights), but only in the minimum amount necessary to fulfill the primary purpose of the reservation.	
Uintah County	190	6	GRA	The "close an entire grazing allotment" standard misses the mark of House Bill 264 and is inconsistent with Uintah County Public Land Policy and Plans by a serious margin.	The BLM does not manage public land based on pending draft or proposed legislation.	
Uintah County	190	7	GRA	From time to time a bonafide livestock permittee in the VFO planning area, acting in good faith and not to circumvent the intent of the BLM's grazing regulations,	The different alternatives present a range of forage allocations between livestock and wildlife if adjustments in AUMs are made.	

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				<p>may temporarily cease grazing operations without losing his or her permitted AUMs. It is proposed in Alternative E to transfer these AUMs to wildlife or to watersheds. This is contrary to BLM regulations that provide for non use, Utah State law, and Uintah County policy.</p>	<p>The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so</p>	

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					that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.	
Uintah County	190	8	GRA	The RMP fails to articulate a legal or factual basis to reduce domestic livestock, and as written, Alternative E violates BLM grazing regulations. BLM may not implement an across the board reduction in permitted grazing use in the RMP. Permitted use includes non-use, and BLM may only reduce permitted grazing use when monitoring or field observations or ecological site inventory or other data demonstrate that grazing use is causing an unacceptable level or pattern of utilization, that rangeland health standards are not being met or that use exceeds livestock carrying capacity. Furthermore, changes in permitted use may only be effected by appealable decision after consultation, cooperation and coordination with the affected grazing permittee. 43 C.F.R. 4110.3, 4110.3-2, 4110.3-3. Alternative E's across the board elimination of grazing non-use, therefore is illegal.	The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. See comment response LG45A regarding FLPMA policy to manage the public lands on the basis of multiple use and sustained yield. While it is the goal of the BLM to enhance rangeland health while providing for and recognizing the need for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM to maximize the number of domestic livestock AUMs. According to section 2 of the TGA, it is the objective of the act to regulate the occupancy and use of the Grazing Districts and to preserve these lands.	
Uintah County	190	9	GRA	The RMP proposes to exclude from forage allocations all land that produces less than 25 or 32 pounds of forage per year. See DEIS 2-11. The grazing rules require that such changes be made in consultation and coordination	The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands	

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				with the individual permittee rather than unilaterally throughout the planning area. In addition, the grazing rules require consultation with the permittee before amending the permit to exclude land. 43 C.F.R. 4110.4-2	“regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. The BLM agrees that changes must be done in consultation, coordination, and cooperation with the permittee. 43 C.F.R. §4110.2-3. The BLM has merely provided criteria to use to when adjustments are required.	
Uintah County	190	10	GRA	We object to the extent the Supplement attempts to authorize the retirement of grazing permits and their reallocation to wildlife. This violates the Taylor Grazing Act, 43 U.S.C. 315, FLPMA, 43 U.S.C. 1742, and the terms of the Executive Orders No 6910, 54 I.D. 539 (1934), and No. 6964 (Feb. 5, 1935), which withdrew public lands as chiefly valuable for grazing.	<p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment</p>	

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					to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.	
Uintah County	190	11	GRA	By the same token, BLM cannot purport to authorize wildlife grazing by retiring grazing permits in order to allocate the forage for wildlife. This action would also constitute a change in grazing use without following the procedures set out in BLM grazing rules. 43 C.F.R 4110.3, 4110.4. It is also inconsistent with the grazing rules which provide for BLM to offer a vacant permit to other qualified permittees.	See comment response 190-O-10. The different alternatives present a range of forage allocations between livestock and wildlife if adjustments in AUMs are made.	
Uintah County	190	12	GRA	Of particular concern is the proposal to transfer livestock AUMs associated with the BCCI to wildlife. This proposal is counter to provisions of Utah State law and Uintah County Public Land Policy.	See comment response 190-O-12.	
Uintah County	190	13	ACE	The ACEC concept gives BLM no authority to discontinue oil and gas development activities already approved under the existing Vernal and Diamond Mountain RMP's, this lies in the statutory definitions of ACEC's found in FLPMA, 43 U.S.C. 1702(a).	The RMP and Supplement recognize all valid existing rights within the Vernal Planning Area and would not retroactively apply management prescriptions to existing rights that would conflict with the currently allowable activities accompanying those rights. Also, Section 1.4.1.2, Development of Planning Criteria, states that the Final EIS would recognize valid existing rights.	
Uintah County	190	14	ACE	The conjunctive phrase "to protect and prevent irreparable damage to," mandates that ACEC designation is not appropriate when relevant values are merely subject to some impairment. The threatened negative effect on a give relevant value must rise to the level of outright damage to that value. Thus, the ACEC concept does not authorize the Secretary to manage a piece of public land for mere non-impairment of a	On August 27, 1980, BLM promulgated final ACEC guidelines (45 Federal Register 57318) that clarify that the term "protects" means: "To defend or guard against damage or loss to the important environmental resources of a potential or designated ACEC. This includes damage that can be restored over time and that which is irreparable. With regard to a natural hazard, protect means to prevent the loss	

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				perceived wilderness characteristic, as if it were or one day may become a Section 603 WSA. Any such attempt to extend, de facto, the non-impairment management mandate to non 603 WSA's in the name of an ACEC, is therefore groundless.	<p>of life or injury to people, or loss or damage to property.”</p> <p>Thus, BLM is to consider the potential for both reparable and irreparable damage when protecting important historic, cultural, or scenic values; fish and wildlife resources; or other natural systems through ACEC designation. This interpretation is consistent with FLPMA's legislative history and implementing policy. Section 2 of the guidelines clarifies that ACECs are special places within public lands. It states: “In addition to establishing in law such basic protective management policies that apply to all the public lands, Congress has said that ‘management of national resource lands [public lands] is to include giving special attention to the protection of ACECs, for the purpose of ensuring that the most environmentally important and fragile lands will be given early attention and protection’ (Senate Report 94-583, on FLPMA). Thus, the ACEC process is to be used to provide whatever special management is required to protect those environmental resources that are most important, i.e., those resources that make certain specific areas special places, endowed by nature or man with characteristics that set them apart. In addition, the ACEC process is to be used to protect human life and property from natural hazards.”</p>	
Uintah County	190	15	ACE	The term "important" in the phrase "important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes," shows that the values sought to be protected must have some objectively recognized importance in order to justify ACEC designations and protection. The Vernal RMP Administrative Draft fails to demonstrate or articulate	BLM considered the acreage needed to protect and prevent irreparable damage to relevant and important values. Nominated ACECs or portions of nominated ACECs that failed to meet both relevance and importance criteria were not considered in the Draft RMP/EIS alternatives.	

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				how the values identified in the proposed ACEC's meet this "importance" threshold.		
Uintah County	190	16	ACE	<p>These other management tools combine with the ACEC proposals to further restrict oil and gas activities on public lands, raising the following additional legal problems under FLPMA:</p> <p>1. Any combinations of the above-described management tools which eliminate one or major uses for two or more years on tracts of public land in excess of 100,000 acres, must be reported to the House and Senate for potential veto. 43 U.S.C. 1712(3)(2).</p> <p>2. Regardless of the size of the affected land, any combination of the foregoing management tools which eliminate major uses such as oil and gas exploration arguably constitute a withdrawal triggering FLPMA's withdrawal provisions.</p>	<p>Comment noted. The lands closed to leasing are not proposed to be withdrawn. Therefore the Department of the Interior would not be required to follow the FLPMA process noted in the comment. If the FEIS contains a decision to withdraw lands from mineral entry that are 5,000 acres or more in size, then the process noted would have to be followed.</p>	