

## Appendix F Public Comments and Agency Response

#	Comment	Response
1	<p><u>Devon Energy Corp. Comment:</u> Devon is concerned with BLM's recommendation to, once again, defer leasing lands within Parcel 68 from the November 2011 Lease Sale. As discussed in more detail below, the BLM's decision to defer Parcel 68 is based on the mistaken and entirely unsupported position that the parcel contains lands with wilderness characteristics, as defined in Secretarial Order 3310 and BLM Manual 6301 (Rel. 6-126 2/25/2011). Parcel 68, however contains a well-developed and extensively traveled county road. As indicated on the BLM's Map 2 from the Leasing EA, County Road 34 pass through the entire length of relatively narrow lease parcel. Moreover, Parcel 68 surrounds private lands that are beyond the jurisdiction of the BLM. As such, the lands within and surrounding Parcel 68 could not meet the size or naturalness requirements necessary to meet the minimum threshold for lands with wilderness characteristics. See BLM Manual 6100.14.B.1.a(1), .2(a) pgs 8-9 (Rel. 6-126 2/25/11). Given the presence of private lands and County Road 34, the lands within Parcel 68 are effectively segregated from the public lands in the area and are of insufficient size to make preservation practicable. Given the fact that lands are not of sufficient size to manage for wilderness characteristics, and inventory of the lands is not even required by current BLM policy. BLM Manual 6302.11.A.pag. 5 (Rel. 6-125 2/25/11). Devon strenuously urges BLM to reconsider the recommendation contained in the Leasing EA and to offer Parcel 68 at the November 2011 Lease Sale.</p>	<p>BLM concurs with Devon's statements that Parcel 68 contains portion of Sweetwater County Road 34 and basically surrounds a piece of private land. These two items in and of themselves do not automatically infer that Parcel 68 does not occur in an area that meets the lands with wilderness characteristics criteria. In accordance with the FLMPA requirement for BLM to maintain current wilderness inventories and BLM Manual 6301.14.A, BLM reviewed Parcel 69 and the adjoining areas to the west and to the east. The review determined that the portion of Parcel 68 lying to the west of County Road 34 is an area bounded by BLM Road 4402, by a powerline, and by private and state land that contains more than 5000 acres, which meets the size criteria for land with wilderness characteristics. The review also determined that the portion of the parcel east of County Road 34 bounded by State Highway 373 and private and state land contains more than 11,000 acres, also meeting the LWC size criteria. County Road 34 serves as a common boundary for both the east and west units. Both the east and west areas were screened for naturalness through digital imagery (NAIP and Google Earth), but a determination could not be made. On June 29, 2011 an Interdisciplinary Team from the Rock Springs Field Office conducted a field inventory of parcel 068 which determined the area west of Sweetwater County Road 034 does not contain wilderness characteristics; however the area east of the county road was determined to have wilderness characteristics. The portion of parcel 068 east of County Road 034 lies within the Rubicon Federal Exploratory Oil and Gas Unit. In accordance with the December 1, 2009 letter from the BLM Wyoming State Director to the Governor of Wyoming concerning unleased lands within the Little Mountain Ecosystem, which states "Any parcel nominated for oil and gas leasing located within a Federal oil and gas exploratory unit agreement would be offered for sale with the existing stipulations as defined for the area in accordance with the Green River RMP", BLM will offer parcel 068 at the November 2011 Oil and Gas Lease Sale. The parcel is constrained with a number of stipulations in accordance with the State Director letter and the Green River RMP. One of which is a controlled surface use stipulation for the protection of the Greater Red Creek ACEC. This stipulation also affords protection to the wilderness characteristics in the area east of County Road 34.</p>
2	<p><u>Devon Energy Corp. Comment:</u> <u>EA Section 3.1 – Site Visits</u> The Leasing EA does not indicate that Parcel 68 was visited as part of the BLM's analysis for the November 2011 Leasing Sale. This seems unlikely given the fact that</p>	<p>A site visit was conducted on June 29, 2001, see response to Comment 1. Concerning wilderness review completed through the Baxter Natural Gas Exploratory Proposal and the Rubicon 3D Seismic Survey Environmental Assessments, both documents, as depicted on the following</p>

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	<p>County Road 34 passed directly through parcel 68. <i>See</i> Leasing EA pgs. 104-108, Map 2, Map 3. Additionally even if Parcel 68 was not visited specifically for the November 2011 Lease Sale, the BLM has inventoried the lands within Parcel 68 during the preparation of the Baxter Natural Gas Exploratory Proposal Environmental Assessment, WYW)04-EA-08-171 (June 2008) Baxter EA), and the Rubicon 3D Seismic Survey Environmental Assessment WY-040-EA-08-195 (July 2008) (Rubicon EA). The BLM is intimately familiar with the lands in Parcel 68 and has visited said lands on many, many occasions</p>	<p>excerpts, only evaluated whether or not the projects fell within or near existing wilderness areas or wilderness study areas. Section 3.13.4, page 58 of Baxter EA WYW-040-EA-08-171 states, “The objective for management of the wilderness resource is to retain the wilderness quality and manage the Wilderness Study Areas (WSAs) in the planning area in accordance with the Interim Management Policy and Guidelines for Lands under Wilderness Review until Congress acts on designation. The BLM recommendations on WSAs in the Resource Area have been made to the Secretary of the Interior. The Baxter Proposal is not located in, adjacent to, or in close proximity to any congressionally designated Wilderness or WSA, or WSA recommended for wilderness.” Section 3.16.3, page 66 of EA WYW-040-EA-08-195 for the Rubicon 3D Seismic Survey makes the same statement. Both EAs evaluated their respective project areas to determine if they contained designated wilderness areas or wilderness study areas. Neither EA evaluated or inventoried their respective project areas to determine if the area contains wilderness characteristics. They simply determined the projects did not fall within existing or proposed wilderness areas or wilderness study areas.</p>
3	<p><u>Devon Energy Corp. Comment:</u> <u>EA Section 3.2 – Resource Values By Parcel</u> The BLM correctly notes that Parcel 68 is entirely contained within the Rubicon Federal Exploratory Unit. The Leasing EA also correctly identifies the parcel as being outside of a Sage Grouse Core Area. Pursuant to Mr. Simpson’s letter of December 2009, lands within the Rubicon Unit should be made available for lease.</p>	See response to Comment 1
4	<p><u>Devon Energy Corp. Comment:</u> <u>Section 3.2.2.3 – Lands with Wilderness Characteristics</u> The BLM indicates that lands within and around Parcel 68 meet the size requirements for lands with wilderness characteristics and, therefore, that BLM is required to undertake field inventories. <i>See</i> Leasing EA, pg 69. As described above, no field inventories are necessary to exclude the lands within Parcel 68 from those with wilderness characteristics given the presence of private lands and County Road 34 <u>directly</u> within the parcel. <i>See</i> Devon Exhibit 12; Leasing EA. Pgs 104-05. Moreover, as also described above, the BLM is intimately familiar with the lands in Parcel 68 given the fact it travels through the lands routinely while on County Road 34 and has conducted not one, but two separate EAs on the lands within and near Parcel 68. <i>See</i> Baxter EA, Rubicon EA. To suggest that additional surveys are needed is simply disingenuous.</p>	See responses to Comments 1 and 2.
5	<p><u>Devon Energy Corp. Comment:</u> Devon strongly urges the BLM to include Parcel 68 in the</p>	See the response to Comment 1

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	<p>November 2011 Lease Sale. BLM has not articulated or provided a reason to defer leasing the Parcel and has previously agreed to lease parcels within the boundaries of the Rubicon Unit. Moreover, the lands within the Parcel were specifically and unequivocally made available for oil and gas leasing in the Green River Resource Management Plan. <i>See</i> Green River RMP, pg 12, Map 13. Under IBLA precedent, The BLM is only authorized to depart from oil and gas leasing determinations set forth in a resource management plan <u>only after</u> the BLM has performed site-specific analysis justifying why “lands which had been designated in the RMP as generally suitable for leasing without restrictions should not be leased at all.” <i>Marathon Oil Co.</i>, 139 IBLA 347, 356 (1997). This analysis has not occurred and, as such BLM’s decision not to offer the parcel is arbitrary and capricious.</p>	
6	<p><u>WGFD</u>: The staff for the Wyoming Game and Fish Department have reviewed the Draft Environmental Assessment for the November 2011 Oil and Gas Lease Parcels. We support Alternative B of the Draft Environmental Assessment.</p>	No response required.
7	<p><u>Rogers</u>: Here are the true FACTS... if the county does not get these expansion leases Sublette county will DIE. Look at the market now, property values have gone down by thirty percent. This county needs these leases.....</p>	No response required.
8	<p><u>Masching</u>: We are extremely disappointed in the BLM - that they would allow drilling in an area of such varied recreational use as is the Commissary Ridge area. We are land owners in the Spring Canyon Ranches, where we are working to build a cabin to enjoy the land and be able to hunt and recreate in the vicinity. With all the wide open spaces available, why would you even think of drilling where so many people own property to enjoy?</p> <p>It seems that you, as a governmental agency, don't respect the land, let alone the property owners and users. If you want the land, you just take it. I assume you don't own land in the area, nor recreate there. I wonder if it would be different if you or anyone else in the agency owned land in this area.</p> <p>Isn't the Bureau of Land Management to manage the land, not destroy it? Yes, we drive vehicles and need gas and oil. But why are there so many wells capped and not used? Why must more wells be drilled? Will they be</p>	<p>The area you are referring to is located within the BLM Kemmerer Field Office (KFO). In May 2010, KFO completed a comprehensive resource management plan (RMP) for all land and mineral estate under the Field Office’s jurisdiction that made a variety of land use allocations, including areas open to oil and gas leasing. The RMP involved public meetings and comment periods. Based on that plan, the federal minerals under both the federal surface ownership and the private surface ownership in the Commissary Ridge area are designated as available for oil and gas leasing (refer to Map 3 in the Kemmerer RMP) . The parcels nominated for inclusion in the November 2011 lease sale are consistent with that RMP decision.</p> <p>Subsequent review for the Expressions of Notice received for several parcels, including those in the Commissary Ridge areas determined an administrative deficiency; consequently these parcels will be deferred from the November 2011 Lease Sale.</p>

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	<p>capped also? So then the land would be destroyed and then the well would be capped and the oil companies go merrily on their way to destroy land in another area? Does 'big business' have more rights than the land owner? Or should I say 'the oil companies'?? It appears so. It doesn't appear to be the Land of the Free anymore, does it? It's the Land of the Almighty Dollar. And it is my opinion that the BLM is perpetuating that concept.</p>	
9	<p><u>Von Krosigk (Pence and MacMillan LLC)</u>: My firm represents Iron Bar Holdings LLC and its interest in the ranches owner by it, which are collectively to as the Elk Mountain Ranch. I recently received a copy of the above-described Notice that you sent to Iron Bar's headquarters. The BLM parcels subject of the Notice that affect our client lie adjacent to its deeded lands burdened by a conservation easement in favor of the Nature Conservancy placed upon the lands by our client's predecessor. Iron Bar is concerned with mineral development within its boundaries and the adverse impacts it will likely have and objects to the same.</p>	<p>The Elk Mountain Ranch is located within the BLM Rawlins Field Office (RFO). In November of 2008, RFO completed a comprehensive resource management plan (RMP) for all land and mineral estate under the Field Office's jurisdiction that made a variety of land use allocations, including areas open to oil and gas leasing. The RMP involved public meetings and comment periods. Based on that plan, the federal minerals under both the federal surface ownership and the private surface ownership within parcels WY-1111-003 and WY-1111-007 are designated as available for oil and gas leasing (refer to Map 2-28 in the Rawlins RMP). The parcels nominated for inclusion in the November 2011 lease sale are consistent with that RMP decision.</p> <p>It is important to note that the referenced conservation easement does not apply too, nor is binding on the federal surface or to the federal mineral estate within parcels 003 or 007. However, to help maintain the integrity of the easement, BLM is attaching a special notice to these parcels alerting lessees to the easement and encouraging them to work with the surface owner maintain its objectives. BLM has also added text to the affected environment and environmental consequences sections of the EA concerning the conservation easement.</p>
10	<p><u>SLEA 419 LLC (Bart Warner)</u>: The following comment is excerpted from the SLEA 419 comment letter and applies to parcel WY-1111-090: these lands are located the Governor's Core Area, which was established for the protection of sage grouse. These lands are also crucial Elk habitats and crucial winter range wildlife areas. Oil and gas production in these areas will impair the functions or suitability of important wildlife habitats for the sage-grouse, elk, and other Wyoming wildlife. Although BLM's efforts to impose lease stipulations to protect wildlife are much appreciated, we cannot determine in specific detail what a majority of the stipulations/restrictions will entail. As such it is impossible to conclude whether these lease stipulation will provide adequate protection for wildlife.</p>	<p>Parcel WY-1111-090 falls within the Kemmerer Field Office. In May 2010, KFO completed a comprehensive resource management plan (RMP) for all land and mineral estate under the Field Office's jurisdiction that made a variety of land use allocations, including areas open to oil and gas leasing. The RMP involved public meetings and comment periods. Based on that plan, the federal minerals under both the federal surface ownership and the private surface ownership within and surrounding parcel 090 are designated as available for oil and gas leasing with moderate constraints (refer to Map 3 in the Kemmerer RMP) . Parcel 090 is consistent with that RMP decision. The moderate constraints are the timing limitation stipulations (TLS) for the crucial winter range, sage grouse nesting and elk calving (big game parturition), as well as</p>

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11	<p><u>SLEA 419 LLC (Bart Warner)</u>: we believe that mineral production on those lands will potentially harm, water quality, recreational, and other valuable uses of our property. Further, if wildlife are significantly impacted, this will hinder the multiple uses of these lands by impairing hunting and fishing activities (which are SLEA 419, LLC's main uses of those lands</p> <p>For these reasons, we ask that BLM not offer the above-referenced land for sale in the November 2011 lease sale, or in the alternative provide us with additional information regarding the specific lease stipulations and restrictions to be imposed. If the BLM does go forward with the lease sale, we ask that additional stipulations be added to protect the wildlife and our property, including, but not limited to, a high reclamation standard (requiring immediate reclamation and planting of specified species of grass and native plants, etc) and strict limitations on the amount of road construction, road disturbance, and road use permitted on these lands.</p>	<p>As stated on pages 6 and 73, <i>"The offering and subsequent issuance of oil and gas leases is strictly an administrative action, which, in and of itself, does not cause or directly result in any surface disturbance. BLM cannot determine at the leasing stage whether or not a proposed parcel will actually be sold, or if it is sold and issued, whether or not the lease would be explored or developed. Consequently, the BLM cannot determine exactly where a well or wells may be drilled or what technology that may be used to drill and produce wells, so the impacts listed below are more generic, rather than site-specific. Additional NEPA analysis would be conducted prior to approval of an APD. This additional environmental documentation would provide site-specific analysis for that well location. Additional conditions of approval (mitigation) may be applied at that time to mitigate identified impacts."</i> This EA provides discussion on potential impacts to water, soils, recreation, and a number of other resources. The EA also provides potential mitigation where appropriate. Response to comment 10 provides additional information on the leasing stipulations applied to parcel 090. Before any development can occur on a federal oil and gas lease the lessee would have to file an application for permit to drill (APD) or other request to conduct operations on the lease. At the time BLM would conduct additional site-specific environmental analysis which would identify the specific impacts that are anticipated and in accordance with requirements in the Kemmerer RMP would prescribe</p>

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		<p>specific mitigation requirements and standards related to reclamation, water/riparian resources, and to recreation, as well as to other affected resource values. This is an example of a RMP requirement that would implemented at the site-specific analysis stage, <i>“Reestablish healthy native plant communities based on preexisting composition or other species as identified in an approved management plan. A reclamation plan will be developed and approved prior to any surface disturbing activities being authorized. Reclamation of surface disturbing activities will be required within the first available planting season, as identified the approved reclamation plan. Monitoring of reclamation success would begin during the first growing season after seeding. Performance standards will be based on site-specific objectives for reclamation and will be identified in the approved reclamation plan. If performance standards are not met at any point within the time frames identified in the reclamation plan; additional testing would be completed in order to guide further reclamation efforts necessary to meet the identified performance standards.”</i> The RMP contains numerous other requirements that would be implemented at the project development phase.</p>
12	<p><u>Love:</u> I am writing to urge that proposed oil and gas leases in Township 23 and 24 and Range 115 and 116 be withdrawn from the November auction. Specifically these are parcels:  WY-1111-097  WY-1111-098  WY-1111-099  WY-1111-100  WY-1111-101  WY-1111-105  WY-1111-106  WY-1111-107</p> <p>The area is unspoiled, so far. This must make it a target for speculators and exploiters. We’ve seen this with the Gateway West project where it appears the power companies have threatened our area in hopes of getting the BLM to endorse what they want to do elsewhere. Now it’s oil and gas leases for no other apparent reason than to feed the greed of speculators.</p>	<p>Refer to the response to comment 8, above.</p> <p>As stated in the response to comment 8, parcel 106 and 107 are deferred from the November 2011 lease sale due to administrative deficiencies in the Expressions of Interest that were filed with BLM. As stated in Appendix A of this EA, parcels 097, 098, 099, 100, and 101 are also deferred from the November 2011 lease sale pending completion of an amendment to the Kemmerer Resource Management Plan for sage grouse core areas and/or pending a field review to determine if they fall within an area meeting the lands with wilderness characteristics criteria. Please note that these lands may still be available for oil and gas leasing once the reasons for deferral have been resolved.</p>
13	<p><u>Welsh:</u> While I believe that oil and gas development is vital to our country’s wellbeing and energy independence, I also believe that these resources can and should be managed responsibly. Responsible management takes into consideration areas valued by our citizens for their</p>	<p>See the response to comments 8 and 12.</p>

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	<p>intrinsic beauty, solitude, and recreational qualities. Responsible management also takes into consideration the impacts to wildlife. Mistakes made in the Pinedale area's Jonah field decimated wintering Wyoming Range deer populations on the Mesa. The Commissary Ridge area of these proposed parcels in Lincoln County is as vital to the dwindling Wyoming Range deer population in the southern end range as Pinedale's Mesa was to the mule deer populations in the northern end of the range. The area also harbors large flocks of sage grouse that are teetering on the verge of endangered species status. Please manage responsibly by removing parcels WY-1111-106, WY-1111-107, WY-1111-105, WY-1111-103, and WY-1111-96 from the November 2011 oil and gas lease sale.</p>	
14	<p><u>Sweetwater County</u>: The Board of County Commissioners (Board) strongly supports the oil and gas leasing proposed by the Draft November 2011 Oil and Gas leasing Environmental Assessment (EA). This proposed leasing helps sustain the oil and gas industry within Sweetwater County, which provides jobs for the County residents and generates approximately 50% of the County's property tax base. It is this tax base that supports high quality public services for benefit all Sweetwater County residents. While as a Board of County Commissioners, we believe in the importance of the development of oil and gas resources the Board strongly encourages the BLM to ensure that oil and gas resource are leased and developed in a manner that complies with the Sweetwater County Comprehensive Plan.</p>	<p>The November 2011 lease parcels within Sweetwater County are processed in accordance with the Rawlins, Kemmerer, and Green River Resource Management Plans, which included coordination and cooperation between the County and BLM. Oil and gas operators are required to adhere to applicable federal, state, and local laws and regulations. BLM routinely encourages its oil and gas operators to coordinate their proposals and activities with state and local government entities and to acquire the appropriate authorizations and permits.</p>
15	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: Of particular concern is parcel number WY-1111-068 which falls within the Coalition's Greater Little Mountain boundary (Map A). According to the EA the parcel WY-1111-068 is currently being deferred pending review for wild lands characteristics. Because we are uncertain as to when/how this might be resolved we would like to offer the following comments on parcel WY-1111-068 as if it was not currently being deferred. The Coalition requests the following be considered and incorporated into the final EA when deciding if parcel WY-1111-068 should be leased and what stipulations should be included if the parcel is leased:</p> <ol style="list-style-type: none"> <li>1) Contains native Colorado River cutthroat trout, a sensitive species</li> <li>2) Contains high level of recreation opportunities</li> <li>3) Needs a landscape scale review to best manage the area for cumulative impacts;</li> <li>4) Is within the Green River Resource Management Plan</li> </ol>	<p>In the draft EA issued for public review and comment on April 19, 2011 parcel 068 was recommended for deferral from the November 2011 Lease Sale pending completion of a review inventory to determine if the area surrounding the parcel meets the criteria for lands with wilderness characteristics (LWC). On June 29, 2011, the Rock Springs Field Office completed the field inventory, through which it was determined that the area west of Sweetwater County Road 34 did not contain wilderness characteristics; whereas the area east of the county road was determined to have LWC.</p> <p>Parcel 068 does fall within the area identified in the comment as the "Coalition's Greater Little Mountain boundary". Under a letter from BLM Wyoming State Director Don Simpson's December 2009 letter to Wyoming Governor Freudenthal certain lands in the Little Mountain ecosystem area will not be offered for lease, others would be offered with a No Surface Occupancy</p>

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	(1997) that is undergoing revision	<p>stipulation, still others would be deferred from leasing pending completion of the revision of the Green River RMP, and that parcels falling within areas with a Federal oil and gas exploratory unit agreement would be available for leasing with existing stipulations as defined in the current Green River RMP. Parcel 068 falls within the existing Rubicon Federal Exploratory Oil and Gas Unit and in accordance with State Director letter, the BLM will offer parcel 068 at the November 2011 Oil and Gas Lease Sale. The parcel is constrained with a number of stipulations in accord with the State Director letter and the Green River RMP (refer to Table 4.1 Parts 1 &amp; 2 and to Appendix B for the stipulations applied to the parcel. One of stipulations is a controlled surface use stipulation for the protection of the Greater Red Creek ACEC. This stipulation also affords protection to the wilderness characteristics in the area east of County Road 34.</p> <p>Text has been added to the EA identifying Trout and Gooseberry Creeks as having conservation populations of Colorado River cutthroat trout and identifying potential impacts. Text has been added that parcel 068 provides outdoor recreation opportunities. Parcel 068 falls within the lands addressed in the Green River RMP. The RMP provided a landscape scale review and made the area available for multiple use opportunities, including oil and gas leasing.</p>
16	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: Include the Conservation Agreement for Colorado River cutthroat trout (<i>Oncorhynchus clarkii pleuriticus</i>), management guidelines in the CRCT Conservation Strategy, and updated analysis (2010) in the RMP. BLM is a signatory to this document and specific management objectives are required of each agency who signed the conservation strategy (Conservation Agreement and Strategy for Colorado River cutthroat trout. CRCT Task Force 2001; CRCT Conservation Team. 2006). The CRCT Conservation Strategy is very specific in its mandate to manage for the conservation of this species.</p>	<p>Text has been added to Section 3.3.2.3 of the EA referencing the tri-state 2006 Conservation Agreement and Strategy.</p>
17	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: Increase the buffer setback requirement, through an NSO area, to a half-mile in watersheds and riparian areas containing sensitive cutthroat trout species. This action will protect coldwater native trout species such as Colorado River cutthroat trout (CRCT) from unnecessary impacts and potential listing.</p>	<p>We acknowledge that any potential affects to streams containing Bonneville or Colorado River cutthroat trout would be further reduced by increasing the riparian buffer to ½ mile. While the Dillon RMP (BLM Montana) does impose a ½ CSU buffer for Westside cutthroat trout and the Beaverhead-Deer Lodge National Forest LUP sets buffers of ½ to 1 mile for arctic grayling, they do not provide supporting rationale as why these expanded buffers are needed or why lesser buffers are not adequate. Additionally, we could not find documentation that the 500-foot riparian buffer used BLM-Wyoming's RMPs does not provide adequate protection for riparian, wetlands, and streams.</p>

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18	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: The RMP should manage entire watersheds. According to the Conservation Agreement for CRCT, management of entire watersheds is a management strategy that should be implemented. (“<i>Manage entire watersheds: Impacts outside the riparian zone should be considered as part of CRCT management. Land management agencies should work to mitigate adverse impacts of watershed activities on water quality, instream habitat, channel morphology, riparian areas, and population stability</i>”). CRCT Conservation Strategy, page 18).</p>	<p>Establishing management goals, objectives, and/or decisions on an entire watershed as suggested would appropriately be made through RMP land use planning process as the commenter notes and as such are beyond the scope of this EA.</p>
19	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: The coalition stresses the need to protect both existing and potential CRCT habitat. In order to ensure the long term viability of CRCT, it is critical that state wildlife agencies, federal land management agencies, anglers and concerned citizens do not accept the current status of CRCT as “good enough”. Recovery of this species requires that it is reintroduced into suitable habitat within the historic range of CRCT. In order to maximize reintroduction opportunities, it is important to ensure that streams meet the habitat requirements of CRCT and that water quality impacts do not occur that would forsake opportunities to reintroduce CRCT. As noted above, the CRCT Conservation Strategy states that “Land management agencies agree to protect <u>existing and potential cutthroat trout waters</u> from adverse effects of other land uses.”</p>	<p>The protections afforded through Lease Stipulation No. 1 (i.e. <i>surface disturbing activities on slopes of 25% or greater or within 500 feet of surface water and/or riparian areas will be prohibited unless or until the permittee or the designated representative and the surface management agency (SMA) arrive at an acceptable plan for mitigation of anticipated impacts</i>) provide the requisite protection committed to in the referenced Conservation Agreement and Strategy.</p> <p>It is important to remember that, as stated in the EA, issuing an oil and gas lease is an administrative process that in and of itself does not necessarily result in environmental impacts. During the environmental review process, BLM cannot determine or predict where a given parcel will actually receive qualifying bids at the lease. Parcels frequently do not receive bids. If a parcel does get leased, BLM cannot determine or predict whether or not the lease will be developed. In the event development is proposed, BLM initiates “site-specific” NEPA analysis to address the “on-the-ground” environmental impacts anticipated from the proposed development.</p>
20	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: Implement management protection guidelines for potential and historic CRCT habitat. It is important to note that “potential habitat” is not synonymous with “historic habitat”.</p>	<p>This would be a RMP land use planning level decision that is beyond the scope ability of this EA.</p>
21	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: The EA should reference supportive examples of management actions that have been implemented to protect potential native trout habitat in other BLM resource areas. In April 2009 the Butte BLM Field Office in Montana issued an RMP Record of Decision that requires half-mile NSO stipulations for streams with cutthroat trout of 90% or higher genetic purity and a half-mile mile NSO would also be applied for streams with the potential for restoration of cutthroat trout. Additionally, in April of 2009, the BLM’s Fillmore Field Office in Utah issued a Decision Record for an</p>	<p>The purpose of the EA is disclose the proposed action and a reasonable change of alternatives; identify the affected environment; anticipated impacts to that environment, and mitigation of those impacts. This EA meets that purpose. It is not necessary for an EA to provide examples of actions conducted elsewhere. The referenced RMPs address watershed, fisheries (including CRCT), and oil &amp; gas leasing. The Green River RMP made the area containing parcel 068 available for oil and gas leasing subject to restrictions/stipulations. Refer to Table 4.1.a and Appendix B in the EA for specific stipulations pertaining to parcel 068. Refer to the response to comment 17 for discussion on</p>

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	Environmental Assessment that specifically excluded leasing in cutthroat trout occupied habitat and historical habitat because they had not analyzed the impacts of oil and gas leasing on reintroduction opportunities for cutthroat trout.	the distance from streams.
22	<u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u> : The parcels lie within an area of great recreational opportunity that provides opportunities for thousands of Wyoming residents each year. Many of our southwest Wyoming members participate in some level of outdoor activity within the GLMA, either as hunters, anglers, hikers, outfitters, or in other outdoor recreational pursuits. The economic value of recreational hunting in the western United States is profound. As recently identified by the Western Governors' Association	Text concerning outdoor recreation opportunities has been added to the description of parcel 068. The EA collectively addresses the anticipated impacts to recreation. The EA also addresses socio-economic benefits derived from outdoor recreational activities.
23	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: On August 16, 2007, President Bush signed Executive Order ("EO") 13443, the purpose of which is "to direct Federal agencies that have programs and activities that have a measurable effect on public land management, outdoor recreation, and wildlife management, including the Department of the Interior ..., to facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat." See EO 13443 reprinted at 72 Fed. Reg. 46,537 (Aug. 20, 2007). Among other things, EO 13443 requires BLM to:</p> <ul style="list-style-type: none"> <li>• Evaluate the effect of agency actions on trends in hunting participation and, where appropriate to address declining trends, implement actions that expand and enhance hunting opportunities for the public;</li> <li>• Manage wildlife and wildlife habitats on public lands in a manner that expands and enhances hunting opportunities, including through the use of hunting in wildlife management planning; and</li> <li>• Establish short and long term goals, in cooperation with State and tribal governments, and consistent with agency missions, to foster healthy and productive populations of game species and appropriate opportunities for the public to hunt those species.</li> </ul> <p>The current RMP (1997), on which the proposed leasing action is based, does not account for the duties imposed on BLM by virtue of EO 13443. Leasing of the protested parcel will have a direct adverse impact to the very resources, recreational and hunting interests EO 13443 is intended to protect. Yet, BLM has provided no explanation of whether or how the proposed lease sale will comply with EO 13443. While the Coalition understands</p>	Contrary to the Coalition's assertion, even though the Green River RMP was approved before EO 13443 it does very much contain wildlife and recreation objectives designed to "maintain, improve, or enhance" wildlife species and habitats, as well as recreation opportunities, including hunting and fishing. The 1997 RMP meets the intent of EO 13443.

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	EO 13443 purports not to create an independent right of judicial review, proceeding to lease the protested parcels without consideration of the goals and objectives of EO 13443 would be arbitrary and capricious and without observance of procedures required by EO 13443. <i>See</i> 5 U.S.C. § 706(2)(a) and (d).	
24	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: Parcels need a landscape scale review to best manage the area for cumulative impacts.</p> <p>. . . a comprehensive look at the entire Little Mountain area is needed prior to leasing parcels for development due to the high value of natural resources.</p>	The referenced Rawlins, Kemmerer, Pinedale, and Green River RMPs established landscape scale resource management allocations, including identifying areas within the respective field office available for oil and gas leasing. The RMPs also provide the landscape scale cumulative impacts analysis. With the exception of parcels 041, 053, 078, and part of 042, all of the parcels addressed in this EA, including parcel 068, are in areas designated as available for oil and gas leasing.
25	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: . . . a comprehensive look at the entire Little Mountain area is needed prior to leasing parcels for development due to the high value of natural resources. . . .</p> <p>Since the leasing EA does not contain a landscape scale review of the BLM could refrain from leasing parcel WY-1111-068 until the RMP is completed. Otherwise we recommend that a landscape scale review be completed as a part of the EA prior to leasing.</p>	Refer to the response to comment 15 for discussion concerning offering oil and gas lease parcels in the Little Mountain ecosystem area.
26	<p><u>Bowhunters of Wyoming/Greater Little Mountain Coalition (Martin)</u>: The BLM is in the process of revising the Rock Springs BLM Resource Area’s Green River RMP. Quality NEPA regulations dictate that when a federal agency is in the process of developing an EIS, it may not take actions that would “limit the choice of reasonable alternatives.” 40 C.F.R. § 1506.1; <i>see also</i> 40 C.F.R. § 1502.2(f). Although these regulations obviously do not prohibit any activity within a planning area during RMP revision, in this case, given new information, serious potential concerns regarding an important and un-analyzed resource, and an EIS that has not yet seen a public draft and preferred alternative, it would leave more decision space available for the RMP revision by deferring this lease parcel until the RMP’s completion.</p>	<p>BLM Land Use Planning Handbook H-1601-1, Section VII.E. states, “<i>Existing land use plans decisions remain in effect during an amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use. Land use plan decisions may be changed only through the amendment or revision process.</i>”</p> <p>Further the Coalition makes reference to “new information, serious potential concerns regarding an important and un-analyzed resource”, but has not provided information that is not either addressed in this EA or the supporting RMP. The resources the Coalition discuss in their comment letter are addressed in the RMP and/or in this EA.</p>
27	<p><u>Wyoming Outdoor Council (Pendery)</u>: Lease parcels 096, 103, 104, 106, and 107 are proposed for sale. Lease parcels 097, 098, 099, 100, 101, and 105 (partial deferral) are propped to be deferred from sale. Yet it is difficult for us to ascertain a logical basis for the differential treatment</p>	The Kemmerer RMP (2010) evaluated resource values throughout the planning are and based on the evaluation and analysis, which included input from the public, made multiple-use land use allocations. The area in and around parcels 097 through 107 is designated as available for oil

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	<p>. . . it seems apparent to us these parcels should not be offered for sale at this time.</p>	<p>and gas leasing with moderate restriction. Based on this it would be appropriate to offer all of these lease parcels for sale on the November 2011 lease parcel list. However; as part of this EA and as consistent with BLM Wyoming Instruction Memorandum 2010-113, BLM reviewed all eleven parcels to determine if they fell within sage grouse core areas, met the 11 sq. mile manageability criteria, and therefore should be deferred pending completion of the on-going sage grouse RMP amendment. Parcels 097, 100, 101 and a portion of 105 met the criteria; hence the deferral recommendation. Consistent with the FLPMA requirement for BLM to maintain current wilderness inventory, the parcels were also screened to see if they met the lands with wilderness characteristic (LWC) criteria. As shown in Appendix D, parcels 096 and 103 did not meet the size criteria. Parcels 104, 105, 106, and 107 met the size criteria, but did not meet the naturalness criteria due to a noticeable imprint of man's work. Parcels 097, 098, 099, 100, and 101 met the size criteria, but BLM could not ascertain if they met the naturalness criteria without conducting a field review; hence their deferral from the November 2011 lease sale. Since parcels 096, 103, 104, 106, and 107 did not meet the manageable sage grouse area or the LWC criteria, and they fall within an area designated as available for oil and gas leasing they were determined to be available for inclusion in the November 2011 lease sale with the appropriated stipulations.</p> <p>Subsequent to posting the draft EA for public review and comment, BLM determined that the Expression of Interest submitted to us to have parcels 103, 106, and 107 placed on the November list contained some administrative deficiencies had are being deferred. The same discovery was made for parcel 093, 094, and 095. They also are being deferred. Parcels 096 and 104 remain available for offer at the November 2011 sale.</p>
28	<p><u>Wyoming Outdoor Council (Pendery)</u>: . . . it appears that virtually all of the leases in the Adobe Town area that fall within citizen's proposed wilderness areas would be deferred from sale. <i>See</i> Exhibit 1. Lease parcels 058, 059, 060, 061, 063, 064, and 065 would be deferred from leasing. However, lease parcel 066 would apparently still be offered for sale. But this parcel too falls within a citizen's proposed wilderness, the Kinney Rim North CWP. Exhibit 1. Consequently, BLM should reconsider whether it is appropriate to offer this parcel for sale.</p>	<p>Parcel 066 falls within the checkerboard land pattern associated with the railroad land grants. The parcel is 640 acre section in the checkerboard, is bounded on all four sides by private land, and is traversed in the southeastern portion by Sweetwater County Road 19. Notwithstanding the CWP, the parcel does not meet the size criteria for lands with wilderness characteristics criteria. Please note that subsequent to release of the draft EA for public review on April 19, 2011, the Rawlins Field Office relocated a missing 2002 wilderness inventory for the Kinney Rim South citizen proposed wilderness (CWP) that includes parcel 058-061 and 063-065. The 2002 inventory concluded that the Kinney Rim South area does not contain lands with wilderness characteristics; hence these parcels will be offered at the November 2011 oil and gas lease sale.</p>

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29	<p><u>Wyoming Outdoor Council (Pendery)</u>: We appreciate that BLM intends to defer leasing of parcels 081, 083, 084, 085, 086, and 087 under Alternative B. The parcels are located in the greater Cedar Mountain (GCM) area west of Flaming Gorge Reservoir. However, the several reasons we feel that BLM should also defer parcels 077, 079, 080, 082, 088, 089, 090, and 091. We believe that the multiple-use principle, sensitive natural values, and the on-going revision of the Rocks Springs RMP all caution against offering for sale the above mentioned parcels.</p>	<p>BLM Land Use Planning Handbook H-1601-1, Section VII.E. states, “<i>Existing land use plans decisions remain in effect during an amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use. Land use plan decisions may be changed only through the amendment or revision process.</i>” This directs BLM to continue to manage these lands under the decisions of the existing plans until the revision is “approved”.</p> <p>Parcels 077-087 are located within the Rock Springs Field Office, parcels 088, 089, and 090 fall within both the Rock Springs and Kemmerer Field Offices, and parcel 091 is located in the Kemmerer Field office. Both the Kemmerer RMP (2010) and the Green River RMP (1997) collectively designate the area contain these parcels as available for multiple use management, which includes managing them for wildlife, recreation, visual resources, as well as other values including oil and gas leasing. Continuing to manage these lands under the current RMP decisions is in accordance with the H-1601-1 citation above. It is also consistent with BLM’s mission and mandates under FLPMA.</p>
30	<p><u>Wyoming Outdoor Council (Pendery)</u>: Multiple-use is hard to define but certainly obligates BLM to manage some areas for wildlife, camping, hiking, hunting, as well as providing opportunities for scientific and educational exploration. The 10<sup>th</sup> Circuit Court of Appeal recently noted that “[i]t is past doubt that the principle of multiple-use does not require BLM to prioritize development over other uses. As we have reasoned in the past, “[i]f all the competing demands reflected in [the Federal Land Management Policy and Management Act] were focused on one particular piece of public land, in many instances only one set of demands could be satisfied. A parcel of land cannot be preserved in its natural character and mined.” <i>New Mexico ex rel. Richardson v. Bureau of Land Management</i>, 565 F.3d 683,685 (10<sup>th</sup> Cir. 2009) (quoting <i>Utah v Andus</i>, 486 F. Supp. 995, 1003 (D. Utah 1979)). Consistent with this statement, BLM is to consider whether “non-mineral resource values are greater than potential mineral development values” when determining whether to lease a parcel. BLM Instruction Memorandum 2010-117, p. 10, May 17, 2010.</p>	<p>The objective Resource Management Plans is to “help ensure that the public lands are managed in accordance with FLPMA (43 USC 1701 <i>et seq.</i>) and other applicable laws and regulations, under the principles of multiple use and sustained yield; in a manner that recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber; and in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water, and archaeological values. Where appropriate, lands will be managed to preserve and protect certain public lands in their natural condition to provide food and habitat for fish and wildlife and domestic animals, and to provide for outdoor recreation and human occupancy and use” (BLM Manual 1601.02). As stated in the response to comment 29, both the Kemmerer and Green River RMPs do just this designate the area containing parcels 077-091 as available for oil and gas leasing with restrictions and stipulations designed to allow mineral development providing for the other resource values.</p> <p>In accordance with IM 2010-117, the draft November 2010 Lease Parcel EA at 4.2.18.B provides discussion concerning non-mineral resource values and potential mineral development values. It is important to note that parcels 088, 089, 090, and 091 adjoin areas with active producing wells, which would indicate a high value for mineral (oil</p>

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		and gas) development. Parcel 077-087 are in close proximity to these active oil and gas fields, also indicating a high mineral resource value. BLM does not intend to manage the mineral development values to the exclusion of other important wildlife, recreation, scientific, and educational resources resource, but rather as directed by the management decisions in the Kemmerer and Green River RMPs in conjunction with those values.
31	<p><u>Trout Unlimited (Brutger/Purvis):</u> In the Finding of No Significance (FONSI) that is attached with the EA, we observed that the Ten Significant Criteria did not adequately summarize the potential impacts and characteristics for this EA. This is especially true when considering that many of these parcels have not had a site visit due to weather conditions, or, when a site visit did occur, observations were made from a quarter-mile, half-mile, and one-and-a-half mile view lengths. Other sites not visited were consequently analyzed through undated aerial photographs. This is neither a quality nor acceptable on-the-ground review. According to BLM IM 2010-117, site visits are required for new areas, to evaluate data, identify resource values, evaluate the adequacy of stipulations, etc. Assessing a lease area from a 1.5 mile view is not adequate.</p>	<p>The commenter infers that the because BLM was not able to conduct site visits for every parcel, the FONSI not adequately summarize the potential impacts and characteristics for this EA because BLM did not conduct site visits on each parcel as is “required” by IM 2010-117.</p> <p>As a point of clarification, IM 2010-117 states “Site visits are highly recommended in any case involving new leasing in an area not already under oil and gas development”, but does not state they are required. The IM further states, “For a parcel that is inaccessible due to location or other factors, it may be sufficient to conduct a review from a nearby vantage point or to use remote-sensing data (e.g., aerial photos, satellite imagery, and topographic maps). This is what the interdisciplinary review teams did. In fact, digital imagery reviews were conducted for the 122 parcels that were determined to be available for leasing using NAIP 2009 (Note: text was added to the EA reflecting the year of the imagery).</p> <p><i>Federal Onshore Oil and Gas Leasing Reform Act, U.S.C. Title 30, Chapter 3A, subchapter IV, §226.(b)(1)(A), states, “ Lease sales shall be held for each State where eligible lands are available “at least quarterly” and more frequently if the Secretary of the Interior determines such sales are necessary (emphasis added).” Since virtually all of Wyoming is covered by snow much of the late fall through early- to mid-spring, it is necessary to use the remote-sensing review for inaccessible parcels in order to meet the legal mandate for quarterly sales.</i></p>
32	<p><u>Trout Unlimited (Brutger/Purvis):</u> <i>Criteria 1.</i> Though there are impacts that will occur based on the fact that leasing eventually leads to exploration and drilling activities, the BLM cannot consider the act of applying stipulations as mitigation measures. The two are considered separate by NEPA. Effects to big game herds from the loss of available critical habitat are and should be considered by the BLM as significant. Studies have shown such impacts can reduce populations significantly. Impacts to streams and rivers that contain sensitive trout species (such as Colorado River cutthroat trout and</p>	<p>As stated in the EA, absent a definitive development proposal it is not possible a more specific cumulative impact analysis and as stated in Section 1.3 of the draft EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if it is leased, whether or not the lease would be explored or developed; and therefore cannot ascertain if oil and gas development on a given parcel would result in a significant impact. The EA provides the level of analysis that is feasible without a definitive development proposal. Based on this BLM cannot predict if a loss of crucial big game habitat or if</p>

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	Bonneville cutthroat trout) can significantly affect the status of these designated sensitive species. Colorado River cutthroat trout, present in the Rock Springs and Rawlins field resource area and known to occur within the several parcels being offered under this sale, were not discussed or reviewed in this EA.	<p>surface disturbance would occur in or within close enough proximity to streams with Colorado River or Bonneville cutthroat trout to impact these species. The stipulations attached to the lease parcels are mitigation measure developed through the referenced RMP/EISs to mitigate impacts. This EA is tiered to those EIS's. BLM asserts that finding of no significant impacts is correct and appropriate. As stated in Section 1.3 of this EA, additional mitigation could be developed through the site specific analysis that would be required at the time a development proposal is submitted. BLM also asserts that through tiering to the governing RMPS/FEISs, in conjunction with the analysis contained in the draft EA itself, the agency has met the requisite of determining the anticipated effectiveness of the stipulations applied to the proposed parcels to mitigate the anticipated impacts.</p> <p>Additional text has been added to the EA concerning conservation populations and potential recovery areas for Colorado River cutthroat trout, as well as for other wildlife.</p>
33	<u>Trout Unlimited (Brutger/Purvis):</u> There are numerous unique geographic characteristics contained within several lease parcels that make the FONSI assumption for this criterion incorrect. As stated in the FONSI, only cultural and historic characteristics were identified as being unique. Ecologically critical areas have been defined in the EA (critical big game habitat, sensitive species habitat, threatened and endangered species habitat). This statement needs to be revised to reflect the significant amount of ecologically critical areas located within many parcels offered for lease sale. Further, other considerations have not been considered in areas that have not been developed. According to the IM 2010-117, non-mineral resource values are greater than potential mineral development values. It does not appear the BLM adequately considered certain parcel configurations and their unacceptable impacts. This is particularly true with respect to coldwater habitats in the Rawlins, Rock Springs, and Kemmerer resource areas.	<p>Text has been added to Criterion 3 of the FONSI. Please note that crucial big game habitat, although indisputably important, is not considered ecologically critical.</p> <p>In accordance with IM 2010-117, the draft November 2010 Lease Parcel EA at 4.2.18.B provides discussion concerning non-mineral resource values and potential mineral development values. The discussion in IM 2010-117 concerning parcel configurations deals with the whether or not it is a single consolidated unit or is made of multiple components and if it is made up of multiple components whether or not that configuration causes unacceptable impacts. It also deals with whether or not a portion of a parcel would result in unacceptable/unmitigatable impacts that would be eliminated by reconfiguring the parcel design. The EA has not identified any unacceptable/unmitigatable impacts from the configuration of those parcels with disconnected components, nor has it identified that there would be unacceptable/unmitigatable from all or portions of a parcel.</p>
34	<u>Trout Unlimited (Brutger/Purvis):</u> <i>Criteria 4.</i> The assumption that leasing parcels will not be highly controversial is incorrect. There are several parcels being offered in this sale that TU feels would be highly controversial. That includes parcels in the Greater Little Mountain area, the Little Snake and Savery Creek areas, and the Seminole Reservoir area. All of these areas contain critically important high value habitat, which in turn provide high hunting and angling opportunities that would be affected by the impacts of oil and gas development.	BLM NEPA Handbook H-1790-1, Section 8.4.2, states that public review is necessary if or when there is either scientific or public controversy over the effects of the proposal. Consistent with that requirement, as well as, as the requirement in IM 2010-117, III.E, BLM made the November 2011 leasing EA available for public review and comment. The FONSI acknowledges that oil and gas leasing does raise a level of concern, but as revised demonstrates why it is not considered to be highly controversial.

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35	<p><u>Trout Unlimited (Brutger/Purvis):</u> <i>Criteria 6.</i> We respectfully disagree with the degree to which the action may establish a precedent. Once a lease has been sold, the precedent begins. The lease holder then has a right to develop the lease and there is no longer equal footing when evaluating future development. And cumulatively, this EA analysis should consider the ecological landscape effects on the fish and wildlife resources dependent on this landscape.</p>	<p>The precedent for issuing oil and gas leases was established by the Mineral Leasing Act of 1920 (Section 13) which authorized the Secretary of Interior to issue oil and gas leases. The parcels on the November 2011 have been offered and leased in the past. Even post lease exploration and development is not precedent setting. Oil and gas leasing, including designating the areas containing these parcels as available for leasing, is grounded in the reference RMPs. Federal leases across the nation have had post lease exploration and development activity. This activity has ranged for an individual dry hole to full field development, such as is occurring in the Jonah and Pinedale Anticline Fields. We still conclude that offering the proposed parcels on the November 2011 sale is not precedent setting. Note: text has been added to the EA concerning fish and wildlife resources.</p>
36	<p><u>Trout Unlimited (Brutger/Purvis):</u> <i>Criteria 7.</i> Cumulative analysis must be completed in order to understand the larger ramifications to the environment and its ecology from the act of leasing these parcels. The statement that cumulative analysis was adequate based on that which has been completed at the RMP level is incorrect since one of the RMPs (Green River RMP) is currently outdated and undergoing revision. Air quality is a huge factor when considering increasing the number of additional parcels for lease, especially in areas that are already experiencing significant reduction in air quality and human health issues. Additionally, loss of critical habitat for big game, sage grouse, cutthroat trout, and a host of other identified species in the EA must be considered from a cumulative standpoint. Finally, there was no discussion in the EA regarding the cumulative impacts from additional energy development projects within each BLM resource area. Such projects include renewable resources development such as wind, transmission line projects such as the TransWest, Gateway West, and Gateway South projects, the Oil Shale PEIS, and the carbon sequestration projects proposed or active in three of the four field areas.</p>	<p>Additional text has been added to the EA. However, absent a definitive development proposal it is not possible a more specific cumulative impact analysis and as stated in Section 1.3 of the draft EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if it is leased, whether or not the lease would be explored or developed. The EA provides the level of analysis that is feasible without a definitive development proposal.</p>
37	<p><u>Trout Unlimited (Brutger/Purvis):</u> <i>Criteria 9.</i> The action of leasing, which has the potential to result in the action of oil and gas development, can adversely affect endangered or threatened species or their habitat for this lease sale. Further, the use of stipulations as mitigation measures is incorrect and TU requests that the BLM recognize this error. There is very little "new" mitigation (or stipulation attachments) measures that were included in this EA; instead, the field offices elected to refer to the same old stipulations which have been applied over the last decade or more. Timing limitations, for instance, consistently get</p>	<p>As stated in the Agency's response to comment 36 and repeatedly throughout the EA, absent a definitive development proposal it is not possible a more specific impact and/or cumulative effects analysis and as stated in Section 1.3 of the draft EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if it is leased, whether or not the lease would be explored or developed. The EA provides the level of analysis that is feasible without a definitive development proposal.</p>

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	waved by the BLM resulting in impacts to big game, as observed in the Pinedale oil and gas fields. Based on the results from the studies that are now revealing how oil and gas development is impacting habitat, wildlife, and air quality, we urge the BLM to increase the stipulations attached to many of these leases which occur within critical habitat and will contribute to future environmental degradation.	As further stated in Section 1.3 of this EA, “additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted. This environmental documentation would provide site-specific analysis for the well pad location or locations. Additional conditions of approval (COA) may be applied at that time.” The mitigation provided through this current EA is consistent with decisions in the referenced RMPs/EISs.
38	<u>Trout Unlimited (Brutger/Purvis):</u> Colorado River cutthroat trout (CRCT) and Bonneville cutthroat trout (BCT) populations and their habitat components are present in several of the lease parcels (see Figures 1-4). Those parcels include: WY-1111-36-42, 54, 55, 57, 68, 89-91, 98, 104, and parcels 120-124. We are pleased to see that several of these parcels have been deferred or deleted; however, we feel all should be deleted based on their significance and critical habitat components. The only mention in the EA parcel review with respect to any fishery evaluation was the repeated sentence “The parcel lies within the Colorado River (the the Platte River) watershed and is subject to water depletion restrictions to protect threatened or endangered fish species occurring in the river proper.”	Additional text has been added to the EA.  The deferral referenced in comment 38, were made depending completion of the RMP Amendment for Greater Sage-grouse, or pending completion of field review for lands with wilderness characteristics, or pending Native American consultation. Deferrals for other reasons, such as CRCT and/or BCT were not determined to be necessary. Mitigation applied to parcels with or adjacent to streams with these species is consistent with the RMP decisions that made those parcels available for oil and gas leasing and is deemed adequate.
39	<u>Trout Unlimited (Brutger/Purvis):</u> Other parcels we feel were not adequately evaluated and should have stronger stipulations applied, including 500-foot buffers for coldwater streams and tributaries containing wild and recreational fisheries. Those parcels include WY-1111-09-15, 73, 79-82, 84, 87, and 109-115. Streams and tributaries in these parcels that have the potential to be impacted from oil and gas activities include the North Platte River, Seminole Reservoir, numerous springs, St. Mary’s Creek, Big Sandstone Creek, Little Sandstone Creek, the Medicine Bow River, the New Fork River, Lane Meadow Creek, Little Dry Creek and other tributaries to the Henry’s Fork, Middle and West Canyon Creeks, Cottonwood Creek, Ham’s Fork, Albert Creek, and Little Muddy Creek.	Lease Notice 1, which is applied to ALL parcels offered for lease “prohibits or restricts surface disturbing activities on slopes over 25%, within 500’ of surface water and riparian/wetland areas”.  Additional text has been added to the EA concerning live streams. Please note however that there are no parcels being offered in the New Fork River drainage
40	<u>Trout Unlimited (Brutger/Purvis):</u> TU has several habitat restoration and manipulation projects on the ground in these lease parcel areas. These projects are initiated in partnership with federal and state agencies and private landowners to help restore and reconnect native trout habitat for generations to come. Thus, we have concerns about the potential impacts from oil and gas development to these projects areas and the coldwater fisheries they contain.	Text has been added to the EA
41	<u>Trout Unlimited (Brutger/Purvis):</u> While parcels are	Text has been added to the EA

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	mentioned as containing sensitive species no specific analysis or mention of CRCT and BCT is present. Nor is there adequate discussion on other native non-trout fish species (the three species) that occur in several of the parcel areas. This results in an incomplete environmental analysis. Conservation and restoration efforts to reduce and eliminate threats that could lead to listing under the Endangered Species Act are being implemented under the Conservation Agreement for Colorado River Cutthroat Trout (June 2006) and in the Range-Wide conservation Agreement for Bonneville Cutthroat Trout (December 2000). It is imperative that the BLM recognize these efforts and make sure that leasing decisions are in accordance with these conservation agreements. The BLM is a partner in both of these Agreements and has considerable responsibilities in maintaining and protecting cutthroat trout habitat.	
42	<u>Trout Unlimited (Brutger/Purvis):</u> Include the Conservation Agreement for Colorado River cutthroat trout, management guidelines in the CRCT Conservation Strategy, and updated analysis (2010) in the EA. BLM is a signatory to this document and specific management objectives are required of each agency who signed the conservation strategy (Conservation Agreement and Strategy for Colorado River CRCT Task Force 2001; CRCT Conservation Team. 2006). The CRCT Conservation Strategy is very specific in its mandate to manage for the conservation of this species. Increase the buffer setback requirement, through an NSO area, to a half-mile in watersheds and riparian areas containing sensitive cutthroat trout species. This action will protect coldwater native trout species such as CRCT and BCT) from unnecessary impacts and potential listing.	See Agency response to comments 16 and 17.
43	<u>Trout Unlimited (Brutger/Purvis):</u> The EA must address the fact that the Resource Management Plans for each of the resource areas should manage entire watersheds. According to the Conservation Agreement for CRCT, management of entire watersheds is a management strategy that should be implemented. ( <i>“Manage entire watersheds: Impacts outside the riparian zone should be considered as part of CRCT management. Land management agencies should work to mitigate adverse impacts of watershed activities on water quality, instream habitat, channel morphology, riparian areas, and population stability”</i> . CRCT Conservation Strategy, page 18).	See Agency response to comment 18
44	<u>Trout Unlimited (Brutger/Purvis):</u> TU stresses the need to protect both existing and potential cutthroat trout habitat. In order to ensure the long term viability of CRCT and	See Agency response to comment 19

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	<p>BCT, it is critical that state wildlife agencies, federal land management agencies, anglers and concerned citizens do not accept the current status of CRCT and BCT as “good enough”. Recovery of both species requires that they are reintroduced into suitable habitat within their historic range. In order to maximize reintroduction opportunities, it is important to ensure that streams meet the habitat requirements of both species and that water quality impacts do not occur that would forsake opportunities to reintroduce them. As noted above, the both Conservation Strategies state that “Land management agencies agree to protect <u>existing and potential cutthroat trout waters</u> from adverse effects of other land uses.”</p>	
45	<p><u>Trout Unlimited (Brutger/Purvis)</u>: Implement management protection guidelines for potential and historic BCT and CRCT habitat. It is important to note that “potential habitat” is not synonymous with “historic habitat” (see Figures 1-4). In 2005, the CRCT Conservation Team (the body charged with the administration of the Conservation Agreement) developed the Range-wide Status for CRCT. In the Range-wide Status, the Team assessed restoration and expansion opportunities in unoccupied historic habitat based on four attributes: 1.) past stocking of non-native trout that would genetically contaminate CRCT; 2.) relative quality of habitat; 3.) significance of existing fisheries within the suitable stream segments; and 4.) relative complexity of removal of non-native fish present within the stream segment. Based upon these attributes and considerations, the Team evaluated currently unoccupied “historic habitat” and determined “suitable habitat” (i.e., stream segments that are suitable for reintroduction of CRCT). This information is summarized on pages 53-54 of the Range-wide Status; it also applies to BCT.</p>	See Agency response to comment 20

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46	<p><u>Trout Unlimited (Brutger/Purvis):</u> The EA should reference supportive examples of management actions that have been implemented to protect potential native trout habitat in other BLM resource areas. In April 2009 the Butte BLM Field Office in Montana issued an RMP Record of Decision that requires half-mile NSO stipulations for streams with cutthroat trout of 90% or higher genetic purity and a half-mile mile NSO would also be applied for streams with the potential for restoration of cutthroat trout. Additionally, in April of 2009, the BLM's Fillmore Field Office in Utah issued a Decision Record for an Environmental Assessment that specifically excluded leasing in cutthroat trout occupied habitat and historical habitat because they had not analyzed the impacts of oil and gas leasing on reintroduction opportunities for cutthroat trout.</p>	<p>See Agency Response to comment 21.</p>
47	<p><u>Trout Unlimited (Brutger/Purvis):</u> The EA does not provide adequate science-based environmental analysis or resource analysis review, including the discussion of on-the-ground site visits, use of migration corridor discussion (especially referencing the latest Hall Sawyer research on big game migration patterns and oil and gas development), and fisheries discussion as required under the new oil and gas leasing reform. Instead, much of the discussion is lumped into a broad and more general discussion that does not specifically address many site specific issues that truly are significant and may be impacted by the sale of some of these parcels. In instances where impacts are acknowledged, suggestions for minimizing or eliminating those impacts are not discussed.</p>	<p>As stated in Section 3.3 of the EA, other than parcel 122, where a previously unknown bald eagle nest was observed, the IDPRT was not able to determine any resource values or concerns other than those already identified through their review of the parcels through the KFO GIS database and NAIP digital aerial imagery.</p> <p>Reference to the Wyoming Game and Fish Department's (WGFD) "Recommendations for Development of Oil and Gas Resources within Crucial and Important Habitat", (2010) has been added to the EA text.</p> <p>The EA does provide reference to the Sawyer research. As previously stated "absent a definitive development proposal it is not possible a more specific impact/cumulative effects analysis" and as stated in Section 1.3 of the draft EA, "BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if it is leased, whether or not the lease would be explored or developed; and therefore cannot ascertain if oil and gas development on a given parcel would result in a significant impact." The EA provides the level of analysis that is feasible without a definitive development proposal.</p>
48	<p><u>Trout Unlimited (Brutger/Purvis):</u> We do request that a more updated reference review be included for the information presented under 3.2.2.2 Wildlife (page 66) and 4.2.2.2 (page 93). It is not sufficient analysis to just list the loosely worded studies reference as is done in 3.2.2.2. Lacking in this discussion is any reference to mitigation guidelines, big game migration routes, raptor guidelines, WGFD mitigation discussions, or other pertinent discussions that assists the reader, industry, or other agencies with understanding what types of impacts to expect and how they might be mitigated.</p>	<p>Additional text has been added to the EA, but again we reiterate that absent a definitive development proposal it is not possible a more specific impact/cumulative effects analysis" and as stated in Section 1.3 of the draft EA, "BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if it is leased, whether or not the lease would be explored or developed; and therefore cannot ascertain if oil and gas development on a given parcel would result in a significant impact."</p>

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	<p>The discussion for sage grouse is comprehensive; however, it is the only special status species identified and fully discussed. The BLM should review other special status species that occur within these parcel locations and include a similar discussion. This includes a discussion of Bonneville cutthroat trout, Colorado River cutthroat trout, and any other species identified by USFWS and WGFD, including their updated list of special status species, as identified in their 2011 new Strategic Habitat Plan and Statewide Wildlife Habitat Plan (2011).</p>	
49	<p><u>Trout Unlimited (Brutger/Purvis):</u> As we have emphasized throughout our comments, TU recommends that the BLM include more science-based references in their analysis when discussing impacts to fisheries from oil and gas leasing and development. One sentence on BCT (page 68) does not qualify as sufficient, thorough, or a necessary good look at the fish or aquatic resource. Lumping aquatic resource discussion under “other” as was done on page 94 is not adequate based on the high level of impacts likely to occur from the numerous leases located in significant fisheries habitat. This discussion should include how sedimentation and erosion affects fish populations and their ability to survive. As currently presented, the discussion on roads is strictly related to water quality.</p>	<p>Additional text has been added to the EA, but again we reiterate that absent a definitive development proposal it is not possible a more specific impact/cumulative effects analysis” and as stated in Section 1.3 of the draft EA, “BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if it is leased, whether or not the lease would be explored or developed; and therefore cannot ascertain if oil and gas development on a given parcel would result in a significant impact.”</p>
50	<p><u>Trout Unlimited (Brutger/Purvis):</u> We would like to see a more thorough discussion and review of water quality and surface to ground water issues and potential problems. This includes discussions about the potential contamination issues associated with drilling activities, including hydraulic fracturing. Numerous springs exist within many of the parcel areas in the Rock Springs and Rawlins area. No mention of these important springs has been made in the EA. These springs support water resources to coldwater fisheries and provide crucial drinking water to wildlife during extreme climate conditions. Impacting these springs through improper drilling methods or contamination events would jeopardize fish and wildlife. The BLM recently hosted a series of forums on hydraulic fracturing across the nation in an attempt to listen to the public’s concerns (April 2011). We request that the BLM listen again and include a more thorough discussion as to how the issue of water contamination and quality of water may be impacted. This is particularly relevant since many wells within the Pinedale resource area have had past histories of contamination incidences.</p>	<p>Additional text has been added to the EA</p>
51	<p><u>Trout Unlimited (Brutger/Purvis):</u> The discussion of</p>	<p>Clarifying text and potential mitigation measures have been</p>

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	watershed regimes under 4.2.10 on page 99 (Watershed-Hydrology) alludes to the fact that long-term direct and indirect impacts would occur but should define the life of the wells (which in many cases have been estimated to be 40-60 years). Such lengthy impacts to watersheds are unacceptable and a more thorough discussion and analysis should be included.	added.
52	<p><u>Trout Unlimited (Brutger/Purvis):</u> The discussion for all Mitigation references should be more expansive. Mitigation actions in the Rawlins and the Pinedale resource area for several projects are not working, despite reference to the Resource Management Plans (RMPs). Additionally, despite a sincere effort in developing broad based mitigation plans, more specific actions should be described that extend beyond mitigation and include steps to take should mitigation fail. This type of adaptive management has resulted in new analysis considerations in the Pinedale Anticline field because mitigation efforts have not worked. Timing restrictions should be adhered to with science-based references that uphold the importance of seasonal restrictions for wildlife survival.</p> <p>And once again, the BLM must not confuse stipulations with mitigation measures. Stipulations should include a separate review in the EA and as instructed in the IM 2010-117, the BLM may impose new and/or stronger stipulations upon review that current environmental harms are occurring under the old stipulations. We strongly urge the BLM to include new stipulations in these areas.</p>	<p>As stated numerous times that absent a definitive development proposal it is not possible to develop a more specific impact/cumulative effects analysis” and as stated in Section 1.3 of the draft EA, “BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if it is leased, whether or not the lease would be explored or developed; and therefore cannot ascertain if oil and gas development on a given parcel would result in a significant impact.” The mitigation proposed through the EA is consistent with management objects in the respective RMPs and with restrictions set forth in those RMPs conditioning the resource allocations to minimize or “mitigate” anticipated impacts.</p> <p>Contrary to the commenter’s assertion, BLM considers lease stipulations synonymous with mitigation.</p> <p>Consistent with IM 2010-117, EA concludes that offering the proposed lease parcels is in conformance with the respective RMPs/FEISs and therefore infers that at the leasing stage the identified lease stipulations are adequate. Once BLM receives a proposal to develop a lease additional mitigation can be developed to address site-specific impacts.</p>
53	<p><u>Trout Unlimited (Brutger/Purvis):</u> The soils discussion on page 95-96 states that surface disturbance is restricted or prohibited in floodplains. Many of these lease parcels are located in significant floodplains. The BLM should remove all lease parcels located in these floodplains in order to adhere to their stipulations and management guidelines. Further, there is no discussion with respect to harms to a river, stream, tributaries, and fisheries from contaminated soils movement. A more thorough soils analysis should be developed under this section. It is entirely too general and cannot possible mean anything with respect to specific parcel discussion. Further, references that discuss the impacts of soil and wind erosion should be included in this discussion. The EA provides a general description early in the discussion of each resource area. Included in those discussions are the impacts from the significant winds that occur in these resource areas. The discussion under Soils does include a reference to direct impacts being reduced or avoided with</p>	<p>Floodplains would be managed in accordance with Executive Order 11988.</p> <p>The EA provides discussion and analysis to the extent possible absent a definitive development proposal.</p>

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	proper design and TU would like examples of such successes to be referenced. Such examples would help bolster the acceptance that responsible management results in habitat protection.	
54	<u>Trout Unlimited (Brutger/Purvis)</u> : The discussion under Vegetation (4.2.6- page 96) is entirely inadequate. Habitat impacts consist of impacts to vegetation. When critical losses occur to high value vegetation from the impacts of oil and gas drilling, this directly and indirectly affects the entire ecology of the area. There are plenty of examples from which the BLM can present in this discussion. It is unacceptable that there exists no discussion in this section on the loss of habitat to wildlife and fish. Streambank vegetation removal affects the availability of insects and shade for fish survival.	Additional text added to the EA  The EA provides discussion and analysis to the extent possible absent a definitive development proposal.
55	<u>Trout Unlimited (Brutger/Purvis)</u> : The discussion on impacts to the recreational resource is lacking in actual impacts or analysis. The EA must include a better description and potential impacts that hunters, anglers, and outdoor enthusiasts might experience from lack of access, lack of hunting or angling opportunities, the areas that are high value hunt areas, tourism impacts, etc. Recreation is a significant resource in all of these FO's and it is not acceptable that the mitigation "solution" offered under this discussion is "None".	The EA provides discussion and analysis to the extent possible absent a definitive development proposal.  Text was added to the mitigation section.
56	<u>Trout Unlimited (Brutger/Purvis)</u> : the Rawlins FO parcel map leaves a lot to be desired for public review. There are no identifying markers that provide reference locations and the heavily drawn blue lines and purples line are not identified in the legend. Additionally, the table on page 81 is not identified.	Thank you for your suggestions on map improvements. BLM will strive provide more user friendly maps in future leasing EAs. The referenced table has been labeled.
57	<u>Wyoming Wildlife Federation (Bannon)</u> : Parcels to be withdrawn: WY-1111-012, WY-1111-024, WY-1111-025, WY-1111-029, WY-1111-036, WY-1111-037, WY-1111-038, WY-1111-047, WY-1111-051, WY-1111-052, WY-1111-053, WY-1111-069, WY-1111-070, WY-1111-071, WY-1111-072, WY-1111-073, WY-1111-079, WY-1111-088, WY-1111-089, WY-1111-090, WY-1111-091, WY-1111-097, WY-1111-105, WY-1111-109, WY-1111-110, and WY-1111-111 (26 parcels).  We request that the above twenty-six parcels be withdrawn from the sale.	Parcels 024, 025, and 069-073 are with sage grouse core areas and are proposed through the draft EA to be deferred pending completion of the sage grouse amendment to the Kemmerer, Pinedale, Rawlins, and Green River RMPs. A portion of parcels 029 also falls within sage grouse core and is proposed to be deferred. A portion of parcel 105 contains the Bridger antelope trap site and is proposed for deferral pending Native American consultation.  Parcels 012, 029, 036-038, 047, 051-053, 079, 088, 089, and 109-111 were screened for sage grouse area in accordance with IM WY-2010-013 and were either determined to not contain core area or were determined not to meet the 11 sq. mile manageability criteria established in the IM. These parcels fall with areas designated by the respective RMPs as available for leasing with stipulations.

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		Accordingly, these parcels are proposed for offer.
58	<u>Wyoming Wildlife Federation (Bannon)</u> : The WY-1111-068 parcel should be looked at with science based decision-making containing management goals and objectives that are sensitive to the rich natural landscape.	See Agency response to Comments 015, 016, 021, 022, and 026
59	<u>Wyoming Wildlife Federation (Bannon)</u> : The BLM has full discretion whether or not to offer these lease parcels for sale. The Mineral Leasing Act, 30 U.S.C. § 226(a), provides that “[a]ll lands subject to disposition under this chapter which are known or believed to contain oil and gas deposits <u>may</u> be leased by the Secretary.” (emphasis added). The Supreme Court has concluded that this “left the Secretary discretion to refuse to issue any lease at all on a given tract.” <i>Udall v. Tallman</i> , 380 U.S. 1, 4 (1965); <i>see also Wyoming ex rel. Sullivan v. Lujan</i> , 969 F.2d 877 (10 <sup>th</sup> Cir. 1992); <i>McDonald v. Clark</i> , 771 F.2d 460, 463 (10 <sup>th</sup> Cir. 1985) (“While the [Mineral Leasing Act] gives the Secretary the authority to lease government lands under oil and gas leases, this power is discretionary rather than mandatory.”); <i>Burglin v. Morton</i> , 527 F.2d 486, 488 (9 <sup>th</sup> Cir. 1975).	As stated in the comment, BLM does have discretion to offer federal mineral estate for oil and gas leasing. One of the purposes of an RMP is to identify resource values, evaluate those values, and make resource use/resource protection allocations. Where an RMP identifies that areas are not available for oil and gas leasing that determination in invoking the discretion that the Mineral Leasing Act (MLA) allows. The referenced RMPs have evaluated and determined that the parcels proposed to be offered at the November 2011 oil and gas lease sale are in fact available for leasing, which is also in accordance with the MLA.
60	<u>Wyoming Wildlife Federation (Bannon)</u> : The Federal Land Policy and Management Act (FLPMA) requires that BLM’s land use plans be consistent with officially approved resource related plans of State and local governments as well as Indian tribes. (43 U.S.C. § 1712(c)(9); <i>see also</i> 43 C.F.R. § 1610.3-2; BLM Handbook H-1601-1 11) “Land use plans must be consistent with state and local plans to the maximum extent consistent with Federal law.” It is the official policy of the Wyoming Game and Fish Commission that crucial habitat for wildlife species within the State should be managed to prevent “any loss of habitat function” (Wyoming Game and Fish Commission Policy No. VII H (April 28, 1998) at 138). Some modification of crucial habitat is permitted but only if habitat function is maintained (i.e., the location, essential features, and species supported are unchanged).	To promote consistency with state and local plans, BLM invited the State of Wyoming and its agencies’, as well as the counties within the RMP area to participate in the RMP process as Cooperating Agencies, which they did. The plans also underwent a Governor’s consistency review, which also involved the state agencies including Game and Fish. The input from this process was used in the development of the alternatives and the final decisions.  Based on the cooperating agency and Governor’s consistency review processes, BLM believes the respective RMPs are consistent with the “ policy of the Wyoming Game and Fish Commission that crucial habitat for wildlife species within the State should be managed to prevent “any loss of habitat function” (Wyoming Game and Fish Commission Policy No. VII H (April 28, 1998) at 138)”, as qualified “ <u><i>Some modification of crucial habitat is permitted but only if habitat function is maintained (i.e., the location, essential features, and species supported are unchanged (emphasis added))</i></u> ”.  The RMPs do allow for modification of crucial habitats, but make every effort to maintain habitat function.
61	<u>Wyoming Wildlife Federation (Bannon)</u> : One parcel of particular note is lease WY-1111-068. The parcel is within the Rubicon Unit and falls into an agreement between the BLM and former Governor Freudenthal.	See Agency response to comments 015, 016, 021, 022, and 026 for additional information pertinent to parcel 068.

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	Wyoming Wildlife Federation acknowledges this agreement. The stipulations and conditions of approval on the lease, however, need safeguards for Colorado River Cutthroat Trout (CRCT) as the lease is by Trout Creek and Gooseberry Creek – both creeks have CRCT. The lease also sits in a recharge area, which is another hydrologic concern.	
62	<u>Wyoming Wildlife Federation (Bannon)</u> : The BLM data maps show that the lease is outside of big game crucial winter range. However, wildlife migration corridors are not defined in the Rock Springs Big Game Winter Range and Parturition Area map nor are they discussed in Section 3.2 Resource Values by Parcel and Section or in Section 4 Environment Impacts. The BLM needs to supply migration corridor information on this lease parcel.	Text has been added to the EA concerning migration routes in general.
63	<u>Wyoming Wildlife Federation (Bannon)</u> : The parcel does contain riparian areas along Trout Creek” (Draft EA November 2011 Oil and Gas Lease Sale, BLM, page 33). Colorado River Cutthroat Trout exist in Gooseberry Creek and Trout Creek. Proper protections need to be in place to prevent the decline of this species. A buffer of 500 feet would curb sediment loading from surface disturbing activities and provide adequate protection for the CRCT.	Refer to Agency response to comment 15. Additionally, Lease Notice 1, which is applied to all parcels prohibits or restricts surface disturbing activities on slopes over 25%, within 500’ of surface water and riparian/wetland areas (Note: the 25% restriction in the notice is more stringent than the 25 degrees requested in the comment).
64	<u>Wyoming Wildlife Federation (Bannon)</u> : Because the lease is part of a contiguous landscape, the conditions of approval and stipulations on the lease need to include surface disturbance maximums, 500 foot buffer is needed from trout creek, and no drilling on slopes greater than 25 degrees. The road system should keep to pre-existing roads as much as possible. Invasive vegetative species need to be kept out of the development area and insures that spread of invasive vegetative species would not occur. If a spread does occur, the lease conditions of approval need to spell out the response protocol the company will take to combat the situation.	Refer to Agency response to comment 63. Additional, restrictions such as surface disturbance limits, road development, and monitoring and control of invasive species would be more appropriately considered once BLM has a development proposal, but again we reiterate that parcel 068 is not recommended for offer at the November 2011 lease sale.
65	<u>Wyoming Wildlife Federation (Bannon)</u> : In Appendix D, Wilderness Review Checklist for Oil and Gas Lease Parcels Rock Springs Field Office, four of the five criteria have no conclusive data provided. The one criterion with information indicates the lease is attached to over 5,000 acres of roadless land. The criteria identifies whether or not the lease has a substantially unnoticeable imprint of man's work answers with the need for a field study to take place. The three remaining criteria contain recreation, natural features, and citizen proposed	Under BLM’s lands with wilderness characteristics guidelines if an area does not meet the size criteria, typically 5000 acres, review for the other characteristics is not needed and the area is found to not contain lands with wilderness characteristics. Similarly with the naturalness criteria, if a parcel meets the size criteria then it is evaluated to determine if the area “generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable”. If it does not meet the naturalness criteria, again additional review is not needed. Hence, why the other items on Appendix D are blank.

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66	<p><u>Wyoming Wildlife Federation (Bannon)</u>: The twenty-six parcels mentioned above are within big game crucial winter range or spring, summer, and fall habitat. Elk, mule deer, antelope and big game migration corridors will all be impacted. Wyoming Wildlife Federation believes that these twenty-six parcels should be removed from the sale because the impact to the surface, habitat, vegetation, and movement of these terrestrial species is too much to give up for development. There are places in Wyoming where development is right and these acres are not within that range . . . If the BLM will not withdraw the parcels they should have a “no surface occupancy” (NSO) stipulation.</p>	<p>The EISs for the Kemmerer, Pinedale, Green River, and Rawlins RMPs evaluated affects to crucial big game winter range, including overlapping winter ranges of multiple species and concluded that areas containing the parcels addressed in this EA and are recommended for offer at the November 2011 lease sale would be satisfactorily mitigated through the timing limitation stipulation. The RMPs also set winter ranges, such as the Rock Creek/Tunp and Bear River Divide areas in the Kemmerer Field Office; the Cow Butte /Wild Cow and Upper Muddy Creek/Grizzly areas in the Rawlins Field Office; the Wind River Front, Trappers Point, Ryegrass, and Bench Corral portions of the Pinedale Field Office; and the Red Creek and Wind River Front portions of the Rock Springs Field Office aside from leasing. Additionally, in a letter to Governor Freudenthal in December 2009 the BLM Wyoming State Director made much of the unleased lands in the Little Mountain ecosystem area unavailable for leasing pending completion of the revision of the Green River RMP. The RMPs also established areas that would be subject to NSO restrictions. Parcels that fell within an area subject to an NSO are constrained by the NSO; refer to Table 4.1a, part 1 &amp; 2. This EA did not come to any findings that would dispute the RMP decisions.</p>
67	<p><u>Wyoming Wildlife Federation (Bannon)</u>: Timing stipulations are not sufficient enough to sustain big game populations. BLM has specified a timing limitation, but allows operation and maintenance of production facilities during the winter once initial drilling has been completed. These standard timing stipulations may help alleviate disruption of winter big game activity during initial drilling, but do not address loss and degradation of habitat caused by development. Recent research suggests they are ineffective at protecting mule deer populations impacted by development.</p>	<p>Table 4.1a parts 1 &amp; 2 provides the all of the stipulations that are proposed to be applied to each lease parcel recommended for offered at the November 2011 lease sale, including timing limitation stipulations for crucial big game winter range. These stipulations provide the foundation for more extensive mitigation that could by applied should a post lease exploration or development proposal occur. They are not the “end-all” level of mitigation that could be applied at post-lease exploration or development. More extensive/expansive/restrictive mitigation, including adaptive management, could be developed during the site-specific NEPA analysis that would be required to address any specific post-lease exploration or development actions that are proposed.</p> <p>It is important to note that the recent research referenced in the comment are primarily based on the results associated with one intensively developed natural gas field and may not be indicative of all oil and gas development.</p>
68	<p><u>Wyoming Wildlife Federation (Bannon)</u>: The BLM should not focus solely on timing limitations in crucial winter ranges as the primary mitigation measure for big game.</p>	<p>Refer to the Agency response to comment 67. Additionally, wildlife crucial winter range is addressed in the governing resource management plans, as well as subsequent EAs. This EA did not come to any findings that would dispute the current RMP decisions nor compel the agency to postpone taking implementation actions, such as issuance of leases.</p>

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69	<p><u>Wyoming Wildlife Federation (Bannon)</u>: WWF suggests that timing limitations alone are insufficient to conserve big game populations once energy development exceeds a certain level. Likewise, we assert that their effectiveness further decreases when exceptions are granted to industry, allowing them to enter and conduct activities on these crucial lands during restricted seasons. Because BLM regularly grants exceptions to winter stipulations, the effectiveness of timing limitations to mitigate impacts from surface disturbing activities is unknown</p>	<p>See the Agency response to comment 67. Exceptions are evaluated through a specific process (see Appendix 9 of the Rawlins RMP for an example). If the request meets the evaluation criteria the exception is usually granted. If the request doesn't comport to the evaluation criteria it is denied.</p>
70	<p><u>Wyoming Wildlife Federation (Bannon)</u>: Monitoring is a necessary but not sufficient component of maintaining ecosystem function and wildlife population viability – it only works if it is rigorously designed, continuously implemented, and tied to triggers for actual management action. It is impossible to maintain or restore biological diversity without understanding what populations are present. Moreover, adaptive management strategies plainly cannot be successful without sufficient attention to monitoring plan design and mandatory, consistent implementation of monitoring of resource conditions. Otherwise, there is no way to guarantee that management will be successfully adapted to a change in conditions.</p>	<p>Monitoring needs to be tailored to the specifics of a development project. At the leasing stage BLM cannot predict whether or not a parcel will be purchased, will be developed, or at what level/intensity development may occur. Monitoring requirements would be developed through that analysis process.</p>
71	<p><u>Wyoming Wildlife Federation (Bannon)</u>: Migration routes are substantially important to big game. Avoid development within migration corridors and stopover points – this includes roads, well pads and support facilities. Limiting the ability of migrating big game to access critical habitats reduces their chances to survive and thrive (Sawyer and Kaufmann 2009, Sawyer and Nielson 2011). The ability to move freely between seasonal habitats is crucial. Migration corridors are vital to the long-term health and survival of big game and avoidance of negative impacts is essential.</p>	<p>Text has been added to the EA concerning migration.</p> <p>Absent a definitive development proposal BLM cannot determine whether or not, or to what extent a migration corridor might be affected. Should development be proposed, additional site-specific NEPA analysis would be conducted, which would include addressing big game migration if the proposal would fall within a migration area.</p>
72	<p><u>Wyoming Wildlife Federation (Bannon)</u>: Habitat fragmentation, connectivity and other factors affecting biological diversity are inherently landscape-level considerations. Protecting biological diversity can only be dealt with appropriately at the programmatic or planning level. This is the only way to ensure biological diversity is preserved and that ecosystem attributes are not steadily diminished by individually small but cumulatively significant site-specific projects. The project level is simply too small a scale for adequate exploration of impacts to the health of large ecosystems.</p>	<p>RMPs are the proper mechanism for providing the landscape level considerations suggested.</p>
73	<p><u>Wyoming Wildlife Federation (Bannon)</u>: Aquatic concerns exist in the Platte River, Colorado River, and the</p>	<p>The governing RMPs have determined that the areas contains the parcels proposed to be offered at the November</p>

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	Great Divide Closed Basin watersheds. WWF believes the lease parcels noted above should be removed because the water quality from the development will be reduced, impacting the recreation industry, quality of fishing experience, and quality of the water that currently exists for the aquatic species – from the general population species to threatened and endangered species. If these leases are not removed, water depletion restrictions will need clarified to protect threatened and endangered fish species. In addition, a buffer of 500 foot should be a lease stipulation to reduce sediment and nutrient loading in streams causing turbid water with a change in flow speeds and temperature. These changes reduce the quality of the water and aquatic habitat.	2011 lease sale are available for leasing and that leasing with the required stipulations is compatible with the watershed management goals and objectives.  As discussed in the EA, water depletions would be managed in accordance US Fish and Wildlife requirements. Also as previously stated, Lease Notice No. 1 would be applied to all parcels and provides restricts or prohibits surface disturbance with 500 feet of surface water and riparian areas.
74	<u>Wyoming Wildlife Federation (Bannon)</u> : WWF believes the impacts to the watersheds are not worth the benefit of oil and gas development.	Comment acknowledged.
75	<u>Wyoming Wildlife Federation (Bannon)</u> : Threatened and endangered fish species will be negatively affected if these lease parcels are sold. Oil and gas development causes a multitude of issues - depletion of the water source, increased sediment loading, water temperature changes which can impact spawning, rate of channel flows could change, erosion and runoff.	The EA provides discussion on impacts to fisheries, including threatened and endangered fish species, as well as water resources and water quality. The EA also provides mitigation, such as Lease Notice No. 1.
76	<u>Wyoming Wildlife Federation (Bannon)</u> : WWF members visit, hunt, or fish within or near these parcels. The draft EA mentions the recreation value of the parcels is for “hunting, fishing, camping, sightseeing, driving for pleasure, off-highway vehicle use, and other recreational activities” (May 2011, Draft EA, page 58). No mitigation measures are given to rectify the situation if a lease is sold and developed.	Mitigation text has been added to the EA.
77	<u>Wyoming Wildlife Federation (Bannon)</u> : Potential loss of this revenue affects not only the state but each county, town and the local businesses that depend on these industries for their source of income. In addition, the Wyoming Game and Fish Department is funded by revenues from the sale of hunting and fishing licenses. It is not difficult to imagine what would happen to local communities and the state’s wildlife management agency should the loss of revenue from these hunting, fishing, and tourism activities occur. WWF believes that the BLM must update its economic analysis of hunting and fishing revenue and the potential loss of this revenue in light of the known impacts that will be experienced by big game.	The economic information WWF suggests being included already exists in the EA at Section 3.2.2.10.
78	<u>Wyoming Wildlife Federation (Bannon)</u> : The Executive Order (13443) directs federal agencies not only to evaluate and consider impacts to wildlife and habitat, but also to	A variety of mitigation measures have been included in the EA to mitigate impacts to hunting and fishing, complying with the Order’s purpose to facilitate the expansion and

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	<p>“facilitate the expansion and enhancement of hunting opportunities and the management of game species and their habitat” (<i>Id.</i> § 1). The record is absent of any evidence that the BLM considered the mandates of Executive Order 13443. The BLM should consider the requirements of the order and perform all review necessary to comply with its mandates prior to offering the parcels at the Lease Sale (<i>clarifying text added</i>).</p>	<p>enhancement of hunting opportunities. Additionally, the governing RMPs contain goals and objectives designed to “maintain, improve, or enhance” wildlife species and habitats, as well as recreation opportunities, including hunting and fishing.</p>
79	<p><u>Alliance for Historic Wyoming (Wischmann)</u>: As we are sure that you are aware, a large number of parcels proposed for leasing lie at or near the National Historic Trails in this region. In particular, parcels 70, 71, 97, 101, 105 and 107 all seem to lie directly across the Sublette Cutoff, a recognized variant of the California National Historic Trail, and one of the generally more pristine trail segments. In particular, the cluster of parcels 69-73 would appear to be an especial threat to the integrity of the Sublette Cutoff in that area.</p>	<p>Historic trails are included in the descriptions for parcels 070, 071, and 101, and have been added to parcels 105 and 107. Consistent with the Green River and Kemmerer RMPs, stipulations for the protection of the trails and/or the visual setting have been applied to these parcels (see Table 4.1a, parts 1 &amp; 2 and Appendix B). Management of parcels 069-073 would be conducted in accordance with the decisions and requirements of the Green River RMP. Parcels 069, 072, and 073 fall outside the trail stipulation area. Absent a definitive development proposal BLM cannot determine whether or not development activity within any these parcels would affect the visual integrity of the trail setting; however if the event a development proposal is submitted for any or all of these parcels additional NEPA analysis would be required and a determination of affect to the trail setting would be made. Additional mitigation could be developed at that time. Please note that parcels 069-073, 101, 107, and a portion of 105 are proposed to be deferred from the November 2011 lease sale.</p>
80	<p><u>Alliance for Historic Wyoming (Wischmann)</u>: Parcel 93, 94 and 104 appear to straddle the Ham’s Fork Cutoff, another recognized variant of the California National Historic Trail.</p>	<p>You are correct; however this trail no longer exists; hence it was not discussed in the description of the parcel.</p>
81	<p><u>Alliance for Historic Wyoming (Wischmann)</u>: Of equal concern are parcels 3, 59, and 68, which lie across the main Cherokee Trail or its southern branch. As I am sure you understand, the National Park Service, in accordance with federal law, has recently begun a feasibility study to consider appropriate additions to the National Historic Trails. There is very good reason to believe that this study will recommend that the Cherokee Trail be added to the National Historic Trails inventory. Therefore, it is especially troublesome to see the BLM considering yet more development along this route. Such actions will almost certainly result in further degradation of this resource, potentially making this long-sought designation as a National Historic Trail all but meaningless.</p>	<p>The Rawlins and Green River RMPs contain management decisions related to National Historic Trails. Parcel 003, 059, and 068 fall with areas that the RMPs designate open to oil and gas leasing subject to stipulations. Historic trails are discussed in the description of resources for parcels 059 and 068. The presence of the Overland Trial has been added to the description of parcel 003, Table 4.1a, parts 1 &amp; 2 and Appendix B show the historic trails protection measure attached to these parcel.</p>
82	<p><u>Alliance for Historic Wyoming (Wischmann)</u>: We are</p>	<p>Absent a definitive development proposal BLM cannot</p>

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	<p>also concerned about any number of these proposed parcels that appear to be within the functional viewshed of the trails corridors. As you well know, the ability to fully experience and enjoy the trails is affected as much by the surrounding viewshed as by the quality of the trail ruts themselves. When the surrounding viewshed is thoroughly compromised, it makes very little difference whether or not the trail remnants are still relatively intact. An industrialized setting ruins the experience of trail visitors and we greatly fear that, in some of these areas, this is exactly what could result from these additional leases. In addition, we are concerned about the air quality and noise pollution that could accompany development on many of these parcels that are within close proximity to the trails. All these factors can degrade the experience for a trail visitor and, by so doing, conflict with the BLM's multiple use mandate. In particular, we ask you to thoroughly evaluate, using computer modeling, the viewshed impacts of parcels 5, 7, 39, 40, 49, 53, 63, 67, 69, 72, 73, 77, 93, 95, 96, 99, 100, 101, 102, 103, 106, and 116 before proceeding with listing them.</p>	<p>determine whether or not development activity within any these parcels would affect the visual integrity of the trail setting; however in the event a development proposal is submitted for any or all of these parcels additional NEPA analysis would be required and a determination of affect to the trail setting would be made. It is at the NEPA that viewshed modeling would be most effective.</p>
83	<p><u>Alliance for Historic Wyoming (Wischmann):</u> We also believe that avoiding any development on or near the historic trail corridors, in accordance with NHPA, is important because of the always present danger that any ground disturbance in these areas will turn up human remains.</p>	<p>Historic trails will be managed in accordance with the governing RMP. Generally, surface disturbance is restricted or prohibited within ¼ mile or the visual horizon, whichever is closer, of contributing segments of trail. Parcels with trail segments contain this stipulation, refer to Table 4.1a, parts 1 &amp; 2, and to Appendix B of the EA.</p>
84	<p><u>Alliance for Historic Wyoming (Wischmann):</u> As you know, during the development of the Pinedale Anticline and Jonah Fields, a number of very important prehistoric resources have been uncovered, including very rare pit houses. There is plenty of reason to believe that additional prehistoric resources of this caliber exist throughout the proposed lease areas. . . . before making these parcels available for leasing, we would ask that serious analysis be conducted to adjudge whether these sites are of a quality that suggests they could well include important prehistoric resources and, they do, that those parcels be removed from the list.</p>	<p>The offering or issuing of an oil and gas lease does not predispose that the parcel will actually be leased or developed. Class 3 cultural inventories are typically conducted when a surface disturbing proposal is proposed and is typically confined to an area in close proximity to the proposed disturbance. As previously, stated site-specific analysis would be conducted at the time a definitive project proposal is received. This is also the point in time the Class 3 cultural inventory would be conducted. A point of note: many of the important sites discovered in the Jonah Field did not exhibit surface exposure; they were only discovered after construction operations had commenced.</p>
85	<p><u>Alliance for Historic Wyoming (Wischmann):</u> We are also concerned about the impact of these leases on various historic wagon roads including the Baggs to Rawlins Stage Road which would appear to be affected by parcels 48, 49, 51, 53.</p>	<p>Management and protection of historic era wagon roads will be conducted in accordance with the governing land use plan. Parcels 48, 49, 51, and 53 are located more than 3.5 miles from the Baggs to Rawlins Stage Road and are out of the viewshed. Parcel 055 is located adjacent to the State Road and parcel 42 is within the viewshed. Both parcels contain protective stipulations.</p>
87	<p><u>Alliance for Historic Wyoming (Wischmann):</u> Another area of concern is how the leasing of parcels 36-57 would</p>	<p>The closest parcel to the JO Ranch is 057, which is located more than 4 miles south of the Ranch and is out of the</p>

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	impact the JO Ranch . . .	viewshed. The other parcels are more than 10 miles from the Ranch. Leasing parcels 036-057 would not impact the JO Ranch. Point of note: There is existing oil and gas development activity in the vicinity of the JO Ranch.
		
88	<p><u>Biodiversity Conservation Alliance (Molvar):</u> The Miracle Mile, a blue-ribbon trout fishery located immediately downstream of Kortez Dam north of Seminoe Reservoir on the North Platte River, has been designated a Class I Water under the Clean Water Act (CWA). The Wyoming Department of Environmental Quality has issued regulations pursuant to the CWA specifying that waters tributary to Class I Waters cannot receive surface discharge that would impair the water quality of the Class I Waters downstream. A number of lease parcels occur in the vicinity of Seminoe Reservoir and its tributaries, in an area where coalbed methane development was once proposed. The parcels include Parcels 8, 9, 10, 11, 13, 14, and 15. In addition, Parcels 12 and 16 are upstream and in close proximity to the North Platte. . . .</p> <p>One method of surface disposal for coalbed methane wastewater is to discharge it into unlined reservoirs, either along drainage channels or away from them. Such reservoirs are designed to leak the wastewater gradually into the soil, where it joins groundwater in its down-gradient flow to the nearest surface stream. In earthen dams with high clay content, “piping” of water through the clay of the dam is a likely outcome of storage of highly saline waters, resulting in leakage of stored water into the channel below and ultimately failure of the dam. In addition, aquifers in different geologic strata are not watertight units, and often there is significant water leakage between aquifers (Phillips et al. 1989, Walvoord et al. 1999). Thus, coalbed methane development may not only dewater the target seam of coal, but may also result in the contamination of neighboring aquifers above or below with natural gas or other pollutants. To prevent degradation of the Class I Waters, a lease stipulation should be attached to these parcels precluding surface discharge of produced waters and instead requiring them to be injected underground into receiving formations of equal or lower water quality, per Wyoming state law.</p>	<p>Absent a definitive development proposal it is not possible a more specific impact and/or cumulative effects analysis and as stated in Section 1.3 of the draft EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if it is leased, whether or not the lease would be explored or developed for coalbed methane or any other oil or gas resource. As stated in Section 1.3, “additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted. This environmental documentation would provide site-specific analysis for the proposed action. Additional conditions of approval (COA), such as the suggested subsurface waste water injection can be developed and applied at that time.</p>
89	<p><u>Biodiversity Conservation Alliance (Molvar):</u> Parcels 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 47, 54, 67, 69, 70, 71, 72, 73, 78, 81, 84, 85, 86, 87, 89, 90, 91, 92, 97, 100, 101, 102, 105, 109, 110, 111, 112, 113, 116, and 119 are in sage grouse Core</p>	<p>Parcels 41, 54, and 78 fall in areas that are designated by the governing RMP as unavailable for oil and gas leasing and are deleted from the November list. Parcels 020-031, 33, 069-073, 080, 081, 083-087, 97, 100, and 105 are deferred or are deferred in part. Other parcels also fall within sage grouse core areas, but do not meet the 11 sq.</p>

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	Areas according to our maps. Under Instruction Memorandum No. WY-2010-013, lands falling within sage grouse Core Areas that are primarily under BLM ownership and are not extensively leased should not be offered for oil and gas leasing.	mile manageability criteria in IM WY-2010-013.
90	<u>Biodiversity Conservation Alliance (Molvar)</u> : Lease parcels should also be screened against sage Grouse ACECs proposed in the context of the statewide Sage Grouse Plan Amendments EIS process. Many of the proposed ACECs have for proposed management withdrawal from future oil and gas leasing. Parcels in each of these areas should be deferred pending the outcome of the Sage Grouse Plan Amendments process, so that a proper decision can be made regarding whether or not to lease them and/or appropriate stipulations can be attached, per IM 2004-110 Change 1.	IMs 2004-110 and 2004-110, Change 1 give State Directors the discretion to defer certain parcels in areas where the resource management plan is under revision or amendment. IM WY-2010-013 works in concert with of the above listed IM to identify specific partials to be deferred for sage grouse pending completion of the sage grouse RMP amendment. Parcels that overlap the ACECs currently being considered through the sage grouse RMP amendment to the Kemmerer, Pinedale, Green River, and Rawlins RMPs are proposed for deferral per the IM WY-2010-013 screening process.
91	<u>Biodiversity Conservation Alliance (Molvar)</u> : We request that all parcels listed above be deferred from the lease sale pending analysis of whether large-block unleased parcels inside Core Areas are being leased, and pending preleasing NEPA pursuant to the 2010 Interior Department leasing IM.	This leasing EA is the required pre-leasing NEPA pursuant to IM 2010-117. The EA also provides a Master Leasing Plan Screen which is also in accordance with the guidance in IM 2010-117.
92	<u>Biodiversity Conservation Alliance (Molvar)</u> : In a study near Pinedale, sage-grouse from disturbed leks where gas development occurred within 3 km of the lek site showed lower nesting rates (and hence lower reproduction), traveled farther to nest, and selected greater shrub cover than grouse from undisturbed leks. <sup>3</sup> According to this study, impacts of oil and gas development to sage-grouse include (1) direct habitat loss from new construction, (2) increased human activity and pumping noise causing displacement, (3) increased legal and illegal harvest, (4) direct mortality associated with reserve pits, and (5) lowered water tables resulting in herbaceous vegetation loss. These impacts have not been thoroughly evaluated with full NEPA analysis.	Absent a definitive development proposal it is not possible a more specific impact and/or cumulative effects analysis and as stated in Section 1.3 of the draft EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity (spacing) development may occur. As further stated in Section 1.3 of the EA, "additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted. This environmental documentation would provide site-specific analysis for the proposed action to address questions like those presented in the comment.
93	<u>Biodiversity Conservation Alliance (Molvar)</u> : BLM should not issue these sage grouse parcels unless a rigorous set of stipulations, far stronger than those provided in the EA, are applied to the parcels. This should include, at minimum: <ul style="list-style-type: none"> <li>• 2-mile No Surface Occupancy buffers surrounding leks;</li> <li>• 3-mile Timing Limitation Stipulations surrounding leks during the breeding and nesting season prohibiting not just construction and drilling activities but also production-related vehicle traffic and human presence;</li> <li>• No overhead powerlines within 5 miles of leks.</li> </ul>	The stipulations attached to the parcels are consistent with and are in conformance with the decisions and requirements in the governing RMPs. In the event the sage grouse amendment to those governing RMPs implements more stringent measures, those measure would be considered as Conditions of Approval through the NEPA process at the time a development proposal is received.
94	<u>Biodiversity Conservation Alliance (Molvar)</u> : There is	See page 24, Section 3.2.2.3. The BLM is aware of this

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	<p>substantial new information in recent studies to warrant supplemental NEPA analysis of the impacts of oil and gas development to sage-grouse. It is incumbent upon BLM to consider the most recent scientific evidence regarding the status of this species and to develop mitigation measures which will ensure the species is not moved toward listing under the Endangered Species Act. It is clear from the scientific evidence that the current protections are inadequate and are contributing to the further decline of the bird's populations. This information constitutes significant new information that requires amendment of the Resource Management Plans before additional oil and gas leasing can move forward.</p>	<p>new information and policy and has referenced it in this document. The BLM, as you are aware, has begun the process of amending six RMPs in the state for sage grouse.</p> <p>BLM Land Use Planning Handbook H-1601-1, Section VII.E. states, <i>“Existing land use plans decisions remain in effect during an amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use. Land use plan decisions may be changed only through the amendment or revision process.”</i></p>
95	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: Wyoming Game and Fish Department biologists have reached a consensus that the Timing Limitation Stipulations proposed for sage-grouse in this lease sale are ineffective in the face of standard oil and gas development practices. These stipulations have likewise been condemned as inadequate by the U.S. Fish and Wildlife Service and renowned sage-grouse expert Dr. Clait Braun. The BLM itself has been forced to admit that “New information from monitoring and studies indicate that current RMP decisions/actions may move the species toward listing...conflicts with current BLM decision to implement BLM’s sensitive species policy” and “New information and science indicate 1985 RMP Decisions, as amended, may not be adequate for sage grouse.” Continued application of stipulations known to be ineffective in the face of strong evidence that they do not work, and continuing to drive the sage-grouse toward ESA listing in violation of BLM Sensitive Species policy, is arbitrary and capricious and an abuse of discretion under the Administrative Procedures Act.</p>	<p>The Wyoming Game and Fish Department has provided comment supporting adoption of Alternative as provided in the draft EA (i.e., with stipulations attached to the parcels though the EA.)</p> <p>There are two important qualifiers in the quotes provided in the BCA comment. The first, is “monitoring and studies indicate that current RMP decisions/actions <i>may</i> move the species toward listing (emphasis added)”. The second is “indicate 1985 RMP Decisions, as amended, <i>may not</i> be adequate for sage grouse (again emphasis added)”. These statements indicate that it is not conclusive that the timing limitation stipulations are ineffective. Regardless of this, BLM has implemented IMs WY-2010-012 and WY-2010-013 to enhance protection of sage grouse core area habitat. Based on the WY-2010-013 screening process parcels 020-031, 33, 069-073, 080, 081, 083-087, 97, 100, and 105 are deferred or would be deferred in part (for those deferred in part, it is the portion within a core area that would be deferred). Additionally BLM initiated the sage grouse RMP amendment process to address sage grouse habitat issues. In the event the amendment implements more stringent measures, those measures would be considered as Conditions of Approval through the NEPA process at the time a development proposal is received.</p>
96	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: The restrictions contained in IM No. WY-2010-012 come nowhere close to offering sufficient on-the-ground protection to sage-grouse leks. Within Core Areas, the IM allows surface disturbing activity and surface occupancy just six tenths (0.6) of a mile from “occupied or undetermined” leks, a far cry from the science-based 3-mile buffer recommended by field biologists. Even less protective, restrictions outside Core Areas allow surface disturbing activities and surface occupancy as close as one quarter (0.25) of a mile from leks. BLM has too great an abundance of data to the contrary to continue with</p>	<p>It is beyond the scope of this EA to address the virtues and/or perceived inadequacies of IM 2010-012.</p>

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	scientifically unsound stipulations as used in IM WY-2010-012 and the current Notice of Competitive Oil and Gas Lease Sale. This is especially clear in light of the U.S. Fish and Wildlife Service’s recent finding that listing the greater sage-grouse as endangered or threatened under the Endangered Species Act is warranted, but precluded by other priorities. If the BLM and other federal agencies intend to keep the sage-grouse from accelerating beyond other listing priorities, more protective measures, in adherence with the scientific recommendations of Hollaran, Braun, and others, must be undertaken now.	
97	<u>Biodiversity Conservation Alliance (Molvar)</u> : The vague stipulations included in BLM’s Notice of Competitive Oil and Gas Lease Sale for particular parcels do little to clarify to the interested public or potential lessees what restrictions might actually apply to protect sage-grouse populations. For example, for some parcels, BLM imposes a Timing Limitation Stipulation and a Controlled Surface Use Stipulation. Such acceptable plans for mitigation of anticipated impacts must be prepared prior to issuing the lease in order to give the public full opportunity to comment, and to abide by the Department of Interior’s stated new policy to complete site-specific environmental review at the leasing stage, not the APD stage. Without site-specific review and opportunity for comment, neither the public nor potential lessees can clearly gauge how restrictive or lax “acceptable plans for mitigation” might be, and whether they comply with federal laws, regulations, and agency guidelines and policies. Thus, absent such review, the leases should not issue at all.	Absent a definitive development proposal it is not possible a more specific impact and/or cumulative effects analysis and as stated in Section 1.3 of the draft EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity (spacing) development may occur. As further stated in Section 1.3 of the EA, “additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted. This environmental documentation would provide site-specific analysis for the proposed action to address questions like those presented in the comment.
98	<u>Biodiversity Conservation Alliance (Molvar)</u> : Again, it is in all interested parties favor (conservation groups, potential lessees, BLM and other federal agencies) for BLM to determine specific “modifications” prior to issuing leases, such as NSO restrictions. If the BLM fails to do so through site-specific environmental review before the APD stage, the agency will violate the “jeopardy” prohibition in the Endangered Species Act and will not adhere to the directive of Secretary Salazar and the Department of Interior’s announced leasing reforms.	Refer to preceding response.
99	<u>Biodiversity Conservation Alliance (Molvar)</u> : BCA recommends withholding the sale of all lease parcels which contain sage-grouse leks, nesting habitat, breeding habitat, wintering habitat and brood-rearing habitat. We request that these parcels be withdrawn from the lease sale. Failing withdrawal of the parcels, parcel-by parcel NEPA analysis should occur, and NSO stipulations must be placed on all lease parcels with sage-grouse leks. In addition, three-mile buffers must be placed around all leks.	Refer to the Agency response to comment 97. The stipulations attached to the parcels are consistent with and are in conformance with the decisions and requirements in the governing RMPs. In the event the sage grouse amendment to those governing RMPs implements more stringent measures, those measure would be considered as Conditions of Approval through the NEPA process at the time a development proposal is received.

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	It is critical that these stipulations be attached at the leasing stage, when BLM has the maximum authority to restrict activities on these crucial habitats for the protection of the species, and that no exceptions to the stipulations be granted. BLM's failure to do so will permit oil and gas development activities which will contribute to declining sage-grouse populations and ultimately listing by the U.S. Fish and Wildlife Service as a threatened or endangered species, in violation of BLM's duty to take all actions necessary to prevent listing	
100	<u>Biodiversity Conservation Alliance (Molvar)</u> : It would be prudent for BLM not to commit these lands for a 10-year period during which the leaseholders would possess some right to explore and produce oil and gas on their leaseholds. Committing these lands to leasing forecloses the option that the BLM could exercise to designate big game crucial winter ranges for no new leasing or No Surface Occupancy. It therefore restricts the range of reasonable alternatives that the BLM could choose from in the RMP revision.	Wildlife crucial winter range is addressed in the governing resource management plans, as well as subsequent EAs. This EA did not come to any findings that would dispute the current RMP decisions nor compel the agency to postpone taking implementation actions, such as issuance of leases, for ongoing RMP revisions. BLM Land Use Planning Handbook H-1601-1, Section VII.E. dated March 11, 2005 states, <i>“Existing land use plans decisions remain in effect during an amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use. Land use plan decisions may be changed only through the amendment or revision process.”</i>
101	<u>Biodiversity Conservation Alliance (Molvar)</u> : The Parties recommend against selling the lease parcels listed above because BLM has again failed to comply with the Memorandum of Understanding and therefore has not provided a rational basis for its decision to offer lease parcels in areas with big game crucial winter range and parturition areas. Until such time as BLM complies with the Memorandum of Understanding it has no rational basis for its decision and the decision is arbitrary and capricious. We request that the parcels be withdrawn from the April 2009 lease sale.	We note that the comment refers to parcels on the April 2009 lease sale; we assume they meant November 2011.  Consistent with the MOU, the Wyoming Game and Fish Department (WGFD) participates in BLM RMP and NEPA processes as a cooperating agency. Through their cooperating agency status they participate in the defining alternatives, they providing input and guidance on management decisions, including those that affect wildlife and fisheries. Note: All of the parcels identified as available for offer at the November 2011 lease sale are in areas identified in the governing RMPs as available for lease. Also consistent with the MOU, WGFD is provided opportunities to participate in the leasing process. They are provided a copy of the lease parcel and are invited to provide comments to BLM as part of the parcel review and EA preparation process, see Section 6 of the EA. They are also providing an opportunity to provide comments on the EA through the public comment period, see comment 6 above.
102	<u>Biodiversity Conservation Alliance (Molvar)</u> : While BCA strongly recommends against the offering of any of these lease parcels for sale, at the minimum, all such parcels in big game crucial winter range and parturition areas should	Wildlife crucial winter range is addressed in the governing resource management plans, as well as subsequent EAs. This EA did not come to any findings that would dispute the current RMP decisions nor compel the agency to

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	<p>have No Surface Occupancy (NSO) stipulations applied to them. NSOs provide the only real protection for big game. Recent studies on the impacts of oil and gas development and production on big game in Wyoming show that the impacts have been huge. Not only have impacts to big game been significant, but they have occurred in spite of the application of winter timing limitations, demonstrating that these stipulations alone do not provide adequate protections for big game.</p>	<p>postpone taking implementation actions, such as issuance of leases, for ongoing RMP. Also refer the Agency response to comment 66.</p>
103	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: A further noteworthy factor is that timing limitations apply only during oil and gas development, not during the production phase. Once production begins, there are no stipulations in place for the protection of big game. It is therefore imperative that stipulations adequate to protect big game be applied at the <i>leasing</i> stage, not the APD stage.</p>	<p>Refer to the preceding response and to the response to comment 67.</p>
104	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: The Wyoming Game and Fish Commission (WG&amp;F) has a formal policy relative to disturbance of crucial habitats, including crucial winter ranges. Crucial habitat is habitat “which is the determining factor in a population’s ability to maintain and reproduce itself . . . over the long term.” <i>Id.</i> at 7. WG&amp;F further describes big game crucial winter ranges as vital habitats. Vital habitats are those which directly limit a community, population, or subpopulation (of species), and restoration or replacement of these habitats may not be possible. The WG&amp;F has stated that there should be “no loss of habitat function” in these vital/crucial habitats, and although some modification may be allowed, habitat function, such as the location, essential features, and species supported must remain unchanged.</p>	<p>See Agency response to comment 60. Also refer to comment 6.</p>
105	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: Furthermore, Wyoming Game and Fish released the recommended minimum standards to sustain wildlife in areas affected by oil and gas development. Their policy recognized the ineffectiveness of winter range stipulations standing alone as currently applied. Mitigation Policy at 6. In all cases, Wyoming’s new mitigation policy recommends going beyond just the winter drilling timing limitations, which BLM currently applies to lease parcels on crucial winter range. In addition to the winter timing limitations, the Mitigation Policy includes a suite of additional standard management practices. Mitigation Policy at 9-11, 52-58. These additional management practices include planning to regulate the pattern and rate of development, phased development, and cluster development, among many other provisions. Mitigation Policy at 52.</p>	<p>See Agency response to comment 60 and 101. Also see the comment from WGFD at comment 6 above. Absent a definitive development proposal it is not possible a more specific impact and/or cumulative effects analysis and as stated in Section 1.3 of the draft EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity (spacing) development may occur. As further stated in Section 1.3 of the EA, “additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted. This environmental documentation would provide site-specific analysis for the proposed action to address mitigation like those presented in the comment.</p>

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106	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: Parcels 20, 21 and 23, 39, 41, 42, 51, 53 and 54, 61 and 64, 70 and 78, 79, 80, 81, 88 and 90, 96, 99, 103, 104, 105, 106, 109, 115, 117, 120 and 121 intersect big game migration corridors as delineated by the Wyoming Game and Fish Department. To these parcels, BLM should attach stipulations that prohibit not just construction activity but also project-related vehicle traffic and human presence at the wellsite within 0.5 mile of the migration corridor during its season(s) of use.</p>	<p>Text has been added to the EA concerning migration. Absent a definitive development proposal BLM cannot determine whether or not, or to what extent a migration corridor might be affected. Should development be proposed, additional site-specific NEPA analysis would be conducted, which would include addressing big game migration if the proposal would fall within a migration area. This environmental documentation would provide site-specific analysis for the proposed action to address mitigation like that presented in the comment.</p>
107	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: Given this evidence and the simple fact that each well pad converts 3-5 acres of crucial winter range to bare ground for extended periods of time, there is no rational basis for BLM to claim that it meets Wyoming’s mitigation policy. It is Impossible for crucial winter ranges to remain “unchanged” in terms of the location, essential features, and species supported, even if drilling does not take place during the timing stipulations. What is worse, however, is the fact that drilling <i>does</i> take place during the timing stipulations when they are waived, as they frequently are. Crucial winter ranges will clearly not remain unchanged” because BLM has not retained the authority to condition well operations (lasting for decades) at the leasing stage.</p>	<p>The metric in Wyoming Game and Fish Commission policy concerning crucial habitat for wildlife species within the State is that those habitats should be managed to prevent “<b>loss of habitat function</b>” (<i>emphasis added</i>) (Wyoming Game and Fish Commission Policy No. VII H (April 28, 1998) at 138). The policy allows for some modification of crucial habitat is permitted but only if habitat function is maintained (i.e., the location, essential features, and species supported are unchanged). Activities can occur on crucial winter ranges and meet this criterion; however at the leasing stage without a definitive development proposal BLM cannot predict if or evaluate what affects may occur.</p>
108	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: The Federal Land Policy and Management Act (FLPMA) requires BLM to “coordinate the land use inventory, planning, and <i>management activities</i> of [public lands] with the land use planning and management programs of . . . the States and local governments . . . by, among other things, considering the policies of approved State and tribal resource management programs.” 43 USC 1712I(9) (<i>emphasis added</i>). BLM must give special attention to “officially approved and adopted resource related plans.” 43 CFR 1601.0-5(g). BLM must remain apprised of State land use plans, assure they are considered, and resolve to the extent practical, inconsistencies between state and federal plans. 43 USC 1712I(9).</p>	<p>Comment acknowledged</p>
109	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: There is no indication that BLM’s winter timing stipulation is based on consideration of Wyoming’s 1998 Mitigation Policy, or its new programmatic standards policy. <i>See</i> Footnote 3. It is apparent there has been no attempt to resolve inconsistencies between what BLM’s stipulation provides and what Wyoming’s mitigation policy requires. There are certainly inconsistencies. BLM’s timing stipulation attempts to prohibit drilling during limited periods, yet this prohibition is frequently waived.<sup>14</sup> Indeed, quite recently the WG&amp;F asked BLM in Wyoming not to grant any</p>	<p>Comment acknowledged</p>

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	<p>waivers of stipulations last winter due to the lack of quality forage for big game in their winter range and the anticipated impacts that year-round drilling will have on big game under those conditions. BLM has refused to accede to this request and has proceeded to grant waivers. Wyoming's mitigation policy specifically seeks to fill gaps left by the timing stipulation, by requiring a number of standard management practices on crucial winter ranges in <i>all</i> cases. These recommendations are standing policy which WG&amp;F expects to be applied in every instance of leasing in crucial winter range.</p>	
110	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: The inconsistencies are even more glaring when one considers the fact that BLM's timing stipulation does not regulate the production phase. Until BLM considers and attempts to resolve these inconsistencies, it cannot allow the sale of the Crucial Winter Range Parcels to go forward. To do so would be a violation of NEPA. Furthermore, the timing stipulation attached to the Crucial Winter Range Parcels is inconsistent with the policy of the BLM Wyoming State Office, as enunciated in the Revised Umbrella Memorandum of Understanding (MOU) between BLM and Wyoming Game and Fish Department. The various requirements in the WG&amp;F minimum programmatic standards for oil and gas development establish "sideboards" as to what actions need to be taken to prevent unnecessary or undue degradation. BLM has not considered these standards from the perspective of its FLPMA imposed requirement to prevent unnecessary or undue degradation. BLM is not meeting its duty to take "any" action that is necessary to prevent unnecessary or undue degradation. 43 USC 1732(b). Once again, this failure is most apparent where application of the winter timing stipulation does not even regulate ongoing operations such as production. BLM has an independent duty under FLPMA to take any action necessary to prevent unnecessary or undue degradation, in addition to its NEPA duty to coordinate its activities with the State of Wyoming and comply with the MOU. Since BLM has given up its ability to require restrictions in the future by not imposing sufficient stipulations at the leasing stage, the effect of this failure to require adequate restrictions at the leasing stage violates FLPMA by permitting unnecessary or undue degradation when oil and gas development commences.</p>	<p>Absent a definitive development proposal BLM cannot determine what affects may occur on a given parcel, whether or not a future development proposal would result in undue or unnecessary degradation. Again, we iterate that the WGFD metric is "maintaining habitat" function. We also reiterate that all of the stipulations referenced in Table 4.1a, Parts 1 &amp; 2, and attached to the lease parcels in Appendix B are derived from decisions in the governing RMPs, which were developed with WGFD serving as a Cooperating Agency. We also reiterate that WGFD supports implementing Alternative B (see comment 6), which includes issuing leases in crucial big game winter range with the timing limitation stipulation. Also refer to Section 1.3 in the EA.</p>
111	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: The parties also recommend against the sale of the Crucial Winter Range Parcels on the basis that their sale would cause unnecessary or undue degradation of public lands. "In managing the public lands the [Secretary of Interior] <b>shall, by regulation or otherwise, take any action necessary</b></p>	<p>Refer to the preceding response.</p>

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	<p><b>to prevent unnecessary or undue degradation of the lands.”</b> 43 U.S.C. § 1732(b) (emphasis added). BLM’s obligation to prevent unnecessary or undue degradation is not discretionary; it is mandatory. “The court finds that in enacting FLPMA, Congress’s intent was clear: <b>Interior is to prevent, not only unnecessary degradation, but also degradation that, while necessary . . . is undue or excessive.”</b> <i>Mineral Policy Center v. Norton</i>, 292 F.Supp.2d 30, 43 (D.D.C. 2003) (emphasis added). The BLM has a statutory obligation to demonstrate that leasing will not result in unnecessary or undue degradation.</p>	
112	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: Parcel 68 is in the Little Mountain area, an area of particularly high value as elk habitat. We recommend that this parcel be withdrawn from the lease sale as this area is a candidate for oil and gas lease management changes under the forthcoming Rock Springs RMP, the revision of which is currently underway. This is as currently proposed in Alternative B. EA at 32. IM 2004-110 Change 1 provides that State Offices “are to consider temporarily deferring oil, gas and geothermal leasing on federal lands with land use plans that are currently being revised or amended.” Specific consideration for deferral is to be given to certain categories of land “that are designated in the preferred alternative or draft or final RMP revisions or amendments as: (1) lands closed to leasing; (2) lands open to leasing under no surface occupancy; (3) lands open to leasing under seasonal or other constraints with an emphasis on wildlife concerns; or (4) other potentially restricted lands. The Wyoming State Office should give consideration to deferring leasing on parcels in this Field Office, even though many of the lease parcels fall into one of the four categories. To offer this lease parcel in the Rock Springs Field Office violates IM 2004-110 Change 1.</p>	<p>Refer to Agency response to comment 15.</p> <p>IMs 2004-110 and 2004-110, Change 1 give State Directors the discretion to defer certain parcels in areas where the resource management plan is under revision or amendment. However, BLM Land Use Planning Handbook H-1601-1, Section VII.E., which was issued after the referenced IMs states, “<i>Existing land use plans decisions remain in effect during an amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use. Land use plan decisions may be changed only through the amendment or revision process.</i>”</p>
113	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: Parcels 26 and 30 potentially occur in portions of the Ferris Dunes that may harbor the blowout penstemon, listed as Threatened under the Endangered Species Act. Parcel 30 is slated for deferral under Alternative B, while portions of Parcel 26 would be proposed for deferral under Alternative B, while other portions would be offered at auction. EA at 20 and 19, respectively. We recommend that both of these parcels be deferred in full from the November 2011 lease sale.</p>	<p>Blowout penstemon is addressed in the Rawlins RMP, which was subject to US Fish and Wildlife consultation. The RMP makes the area containing parcels 026 and 030 available for oil and gas leasing subject to stipulations. Parcel 026 is located in the RMP designated blowout penstemon ACEC and is encumbered by NSO and CSU stipulations for the species. Parcel 30 is encumbered by a CSU. Note: The deferral recommendation for parcel 30 is for sage grouse core pending completion of the sage grouse RMP amendment.</p>
114	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: Sensitive Species, the BLM should refrain from approving or conducting any activity that could harm Wyoming pocket gophers or their habitat. Stipulations and mitigation measures cannot guarantee adequate protection for the</p>	<p>Text has been added to the EA concerning Wyoming pocket gopher. Absent a definitive development proposal BLM cannot determine whether or not, or to what extent the Wyoming pocket gopher might be affected. The EA at Section 4.2.2.2 does disclose generally disclose the surface</p>

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	species, as so little data has been collected to establish its breeding patterns and habitat continuity, among other variables. The Leasing EA provides no analysis whatsoever on impacts to pocket gophers.	disturbance would potential result in habitat fragmentation as well as short- and long-term habitat losses. Should development be proposed, additional site-specific NEPA analysis would be conducted, which would include addressing Wyoming pocket gopher if the proposal would fall within their habitat. This environmental documentation would provide site-specific analysis for the proposed action to address mitigation like that presented in the comment.
115	<p><u>Biodiversity Conservation Alliance (Molvar):</u> First, it was our understanding that the leasing reforms would analyze leases on a case-by-case, site specific basis before the leasing decision is made, instead of deferring site visits until the APD phase. Second, as no specific representations are made in the EA concerning how locations will be “adjusted to minimize habitat loss,” it is impossible for either the reader or the BLM to reach any conclusion whatsoever regarding the effectiveness of these “adjustments” and therefore conclude whether or not significant impacts are likely to occur. These parcels should therefore be deferred until a real impact analysis is undertaken.</p> <p>These leases should not issue pending site-specific NEPA analysis; no analysis has been done at the RMP level. Wyoming pocket gophers are one of the rarest mammals in North America, if not the rarest. This naturally uncommon species is extremely vulnerable to habitat loss due to mining and energy development and associated roads, and to habitat fragmentation due to roads and well fields. Oil and gas development poses perhaps the greatest threat to Wyoming pocket gopher viability. Both breeding and foraging activities of Wyoming pocket gopher populations are impacted by above and below ground disturbances associated with oil and gas exploration, drilling and associated activities. Impacts of oil and gas development to Wyoming pocket gopher include (1) direct habitat loss from new construction, (2) increased human activity and pumping noise causing generally known and unknown behavioral changes, (3) direct mortality associated with reserve pits, crushing due to vehicular movements and construction activities, and (4) lowered water tables resulting in herbaceous vegetation loss. These impacts have not been thoroughly evaluated with full NEPA analysis.</p>	<p>Again, absent a definitive development proposal it is not possible a more specific impact and/or cumulative effects analysis and as stated in Section 1.3 of the draft EA, BLM cannot determine at the leasing stage whether or not a nominated parcel will actually be leased, or if leased, whether or not the lease would be explored or developed or at what intensity (spacing) development may occur. As further stated in Section 1.3 of the EA, “additional NEPA documentation would be prepared at the time an APD(s) or field development proposal is submitted. This environmental documentation would provide site-specific analysis for the proposed action to address questions like those presented in the comment.</p> <p>The draft November 2011 lease parcel EA meets the requirements of IM 2010-117.</p> <p>Please note that the Rawlins RMP does address Wyoming pocket gopher the that the following controlled surface use stipulation is applied to all lease parcels on the November 2011 lease sale list: <i>“the lease area may now or hereafter contain plants, animals, or their habitats determined to be threatened, endangered, or other special status species. BLM may recommend modifications to exploration and development proposals to further its conservation and management objective to avoid BLM-approved activity that will contribute to a need to list such a species or their habitat. BLM may require modifications to or disapprove proposed activity that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat. BLM will not approve any ground-disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 U.S.C. § 1531 et seq., including completion of any required procedure for conference or consultation.”</i></p>
116	<p><u>Biodiversity Conservation Alliance (Molvar):</u> Small mammals with restricted distributions and/or narrow habitat requirements are more vulnerable than others to habitat loss. The paucity of information regarding Wyoming pocket gophers requires extreme caution when</p>	<p>We note the BCA references the February lease sale, but we assume they mean the November 2011 lease sale. Please refer to previous responses concern the level of analysis achievable at the pre-lease stage.</p>

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	proposing to disturb potential habitat. Habitat destruction is the primary threat to <i>T. clusius</i> . Habitat fragmentation and isolation also threaten <i>T. clusius</i> . Continued oil and gas development creates increasingly dense road networks, diminishes corridors for dispersal, and further separates populations. Roads act as barriers to finding mates, leading to inbreeding and loss of gene flow within individual populations. Habitat fragmentation results in shrinking islands of intact habitat with increased exposure to edge effects. The impacts of disturbances associated with oil and gas development will only increase under the February sale of parcels containing Wyoming pocket gophers and habitat.	
117	<u>Biodiversity Conservation Alliance (Molvar)</u> : The Wyoming BLM assigned the Wyoming pocket gopher to its sensitive species list. The BLM developed the list to “ensure that any actions on public lands consider the overall welfare of these sensitive species and do not contribute to their decline”. In addition, the Wyoming Game and Fish Department includes the Wyoming pocket gopher on a long list of species of concern under Wyoming’s Comprehensive Wildlife Conservation Strategy. The BLM’s sensitive species management includes “developing conservation strategies” and “prioritizing what conservation work is needed.” BLM’s inclusion of parcels with Wyoming pocket gophers and habitat in the February 2010 lease sale does not indicate the agency is adhering to its own management standards.	BCA refers to the February 2010 lease sale. We again assume they meant to refer to the November 2011 lease sale instead. The Rawlins RMP addresses the Wyoming pocket gopher as a sensitive species. The RMP also makes the parcels on the November 2011 lease list, including those with or potentially with Wyoming pocket gopher habitat available for oil and gas leasing subject to the controlled use stipulation described in the Agency response to comment 115.
118	<u>Biodiversity Conservation Alliance (Molvar)</u> : The Wyoming Natural Diversity Database has assigned the Wyoming pocket gopher a rank of G2/S2. The G2 refers to a relatively high probability of global extinction, based primarily on the species’ extremely small global range. The S2 refers to a relatively high probability of extinction from Wyoming, based largely on range restriction, but also considering apparently low range occupation, uncertain abundance trends, and moderate biological vulnerability. Further, the Database assigned a Wyoming Significance Rank of Very High to the Wyoming pocket gopher, which reflects the extremely high contribution of Wyoming population segments to continental persistence of the species.	Comment acknowledged
119	<u>Biodiversity Conservation Alliance (Molvar)</u> : To date, there are no management plans or conservation strategies pertaining explicitly to the Wyoming pocket gopher, although one status assessment has been drafted with support of the Wyoming BLM State Office and the Wyoming Natural Diversity Database. There appear to be insufficiently described mechanisms by which	The Rawlins RMP addresses the Wyoming pocket gopher as a sensitive species. The RMP also makes the parcels on the November 2011 lease list, including those with or potentially with Wyoming pocket gopher habitat available for oil and gas leasing subject to the controlled use stipulation described in the Agency response to comment 115.

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	<p>conservation of Wyoming pocket gophers could be achieved should oil and gas development occur within their known and potential range. However, the primary concern stated by most studies of the species is the lack of information on its biology and ecology. Without gathering the needed information, conservation mechanisms' efficacy cannot be determined. Biodiversity Conservation Alliance asks the Wyoming BLM State Office to withdraw parcels containing known and potential Wyoming pocket gophers and habitat while adequate information is gathered and evaluated and the USFWS completes its review of our petition for listing under the ESA.</p>	<p>We note in a press release date April 14, 2010, the US Fish and Wildlife Service determined that including Wyoming pocket gopher on the threatened and endangered species list was not warranted.</p>
120	<p><u>Biodiversity Conservation Alliance (Molvar):</u> Negative impacts of oil and gas operations on Wyoming pocket gopher and their implications for the species are named in virtually every scientific Wyoming pocket gopher (<i>Thomomys clusius</i>) conservation assessment and survey. Wyoming pocket gopher mitigation measures are essentially non-existent due to their extremely limited range and a paucity of scientific knowledge concerning its ability or inability to adapt to changing habitat conditions. BLM has failed to provide any analysis, whether field experiments or literature reviews, that describes if and how disturbance to <i>T. clusius</i> habitat would be avoided.” There is substantial new information in recent studies to warrant supplemental NEPA analysis of the impacts of oil and gas development to Wyoming pocket gopher. It is incumbent upon BLM to consider the most recent scientific evidence regarding the status of this species and to develop mitigation measures, if possible, which will ensure the species is not moved toward listing under the Endangered Species Act. It is clear from the scientific evidence and a total absence of meaningful BLM (state and federal levels), Wyoming Game and Fish, and U.S. Fish and Wildlife Service conservation measures for the Wyoming pocket gopher that current protections are non-existent, thereby allowing if not encouraging habitat degradation and destruction. New and continuing Wyoming pocket gopher survey information constitutes significant new information that requires amendment of the Resource Management Plans before additional oil and gas leasing can move forward.</p>	<p>Refer to Agency responses 114 through 119</p>
121	<p><u>Biodiversity Conservation Alliance (Molvar):</u> For example, the BLM itself has been forced to admit that “New information from monitoring and studies indicate that current RMP decisions/actions may move the species [greater sage grouse] toward listing...conflicts with current BLM decision to implement BLM’s sensitive species policy” and “New information and science indicate 1985 RMP Decisions, as amended, may not be adequate</p>	<p>This is a repeat of at portion of comment 95; refer to the Agency response to that comment.</p>

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	for greater sage grouse.” Continued application of stipulations known to be ineffective in the face of strong evidence that they do not work, and continuing to drive the greater sage grouse toward ESA listing in violation of BLM Sensitive Species policy, is arbitrary and capricious and an abuse of discretion under the Administrative Procedures Act.	
122	<u>Biodiversity Conservation Alliance (Molvar)</u> : We hold that, in the case of the Wyoming pocket gopher, relevant stipulations do not exist. Further, we hold that a total absence of stipulations serves to drive the Wyoming pocket gopher toward ESA listing in violation of BLM Sensitive Species policy, is arbitrary and capricious, and is an abuse of discretion under the Administrative Procedure Act.	See controlled surface use stipulation in Agency response to comment 115
123	<u>Biodiversity Conservation Alliance (Molvar)</u> : No lease parcels which contain known and potential Wyoming pocket gopher habitat should be offered until a full NEPA analysis on impacts to this BLM Sensitive Species is performed and appropriate stipulations are formulated and attached to ensure the viability of pocket gopher populations in the area. We request that these parcels be withdrawn from the lease sale. Failing withdrawal of the parcels, it is critical that NEPA analysis occur on each parcel before leasing, and NSO stipulations be placed on all lease parcels containing known and potential Wyoming pocket gopher habitat. These stipulations should be attached at the leasing stage, when BLM has the maximum authority to restrict activities on these crucial habitats for the protection of the species, and that no exceptions to the stipulations be granted. BLM’s failure to do so will permit oil and gas development activities which will directly and indirectly negatively impact Wyoming pocket gopher populations and habitat and increase the potential for listing by USFWS as a Threatened or Endangered species, in violation of BLM’s duty to take all actions necessary to prevent listing.	The parcels proposed to be offered for sale at the November 2011 oil and gas lease sale are located within areas determined to be available for leasing through the governing RMPs. The controlled surface use stipulation discussed in the Agency response to comment 115 is designed to provide protection for Wyoming pocket gophers and their habitat, as well as that for other BLM sensitive species. Neither the Rawlins RMP or this EA identified a need to impose a NSO stipulation for this species.
124	<u>Biodiversity Conservation Alliance (Molvar)</u> : The Wyoming pocket gopher ( <i>Thomomys clusius</i> ) is the only known vertebrate species endemic to Wyoming - apparently only in south-central Wyoming and in specifically Sweetwater and Carbon counties. One of our petitions primary rationales for the species’ listing under the Endangered Species Act is the potential negative effects of energy development taking place within their known range. Energy development is also named as a “more likely” threat than even agriculture to the Wyoming pocket gopher in the Wyoming Natural Diversity Database Wyoming pocket gopher Conservation Assessments.	Comment acknowledged.

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125	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: In addition, Parcel 66 is also in the Kinney Rim citizens’ proposed wilderness units, but is not proposed for deferral, which is puzzling and perhaps the result of an oversight in BLM’s initial screening process. Rock Springs BLM did a site visit to this parcel, which “revealed no resource values or concerns other than those already identified through their review of the parcels via the RSFO GIS data base and NAIP digital aerial imagery.” EA at 11. This is odd because the Rock Springs BLM is in receipt of BCA’s Citizens’ Wilderness Inventory of the Kinney Rim North Unit, submitted in 2002, and should be aware of the potential for ‘Wild Lands’ designation from that perspective. Yet the leasing EA makes no mention of the potential for wilderness characteristics for this parcel (see EA at 30), although for other parcels involving the Kinney Rim citizens’ wilderness proposals, the potential for wilderness is mentioned. Id. It is also curious that Parcel 66 is specifically called out as not possessing the potential for wilderness characteristics, while other parcels in the same CWP units are acknowledged to possess the potential for such characteristics. EA at 69. Appendix D-2 sheds no light on the rationale for this determination. This parcel also would be eligible for inclusion in the Adobe Town DRUA should the Rock Springs Field Office choose to extend the DRUA across Field Office boundaries to encompass lands which would logically be included as part of the same landscape under the Rock Springs RMP EIS. As a result, this parcel also deserves to be deferred pending ‘Wild Lands’ inventory and land management decision making process.</p>	Refer to Agency response to comment 28.
126	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: These citizens’ proposed wilderness units, involving both the seven deferred parcels and the one parcel not proposed for deferral, have not been inventoried by BLM since approximately 2003 (and it is questionable whether a thorough field agency has ever been attempted by the agency), and the 2003 inventory does not follow the guidelines of the new inventory manual. These parcels should be deferred pending analysis for ‘Wild Lands’ eligibility. In addition, BLM has the option to manage these plans to protect the wilderness characteristics that are documented to occur here. We recommend these parcels be deferred pending RMP revision.</p>	Refer to Agency response to comment 28.
127	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: These parcels will hereinafter be referred to as the Special Values Parcels. Because all of these parcels lie in or very near Citizens Proposed Wilderness areas or BLM Wilderness Study Areas they clearly have special values, such a</p>	Comment acknowledged

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	wildness and remoteness characteristics and the ecological services typical of such areas (such as greater biological diversity and better water quality), even if BLM does not recommend them for wilderness designation. The fact that BLM did not recommend CWP areas for wilderness designation does not change these special and unique wilderness values. We are certain BLM is well aware of these special values, as well as the WSA areas it has recommended for wilderness designation.	
128	<p><u>Biodiversity Conservation Alliance (Molvar):</u> The impacts to these wilderness-quality lands has not been analyzed thoroughly, either in the EA, or in RMP-level NEPA documents thus far. Leasing these parcels without No Surface Occupancy (NSO) stipulations could irretrievably destroy the wilderness character of these areas. Therefore, BLM will violate NEPA if these lands are leased in this sale. Before leasing these parcels, BLM must analyze impacts to visitors' experiences, recreation values, and scenic values. <i>See e.g., Pennaco Energy, Inc. v. Department of the Interior</i>, 377 F.3d 1147 (10th Cir. 2004). The regulations implementing NEPA provide that federal agencies shall, to the fullest extent possible, "[u]se the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment." 40 C.F.R. § 1500.2(e). Such alternatives should include reasonable alternatives to a proposed action that will accomplish the intended purpose, are technically and economically feasible, and yet have a lesser impact. <i>Id.</i>; <i>Headwaters, Inc. v. BLM</i>, 914 F.2d 1174, 1180-81 (9<sup>th</sup> Cir. 1990); <i>City of Aurora v. Hunt</i>, 749 F. 2d 1457, 1466-67 (10th Cir. 1984). The purpose of NEPA's alternatives requirement is to ensure agencies do not undertake projects "without intense consideration of other more ecologically sound courses of action, including shelving the entire project, or of accomplishing the same result by entirely different means." <i>Envnt'l Defense Fund, Inc. v. U.S. Army Corps of Eng'rs</i>, 492 F.2d 1123, 1135 (5th Cir. 1974); <i>see also Or. Env'tl. Council v. Kunzman</i>, 614 F.Supp. 657, 660 (D. Or. 1985) (stating that the alternatives that must be considered under NEPA are those that would "avoid or minimize" adverse environmental effects).</p>	<p>In accordance with the requirement under FLPMA for the agency to maintain current wilderness inventory, all parcels were screened for land with wilderness characteristics. See Appendix D of the EA. In accordance with the inventory guidelines in Manual 6301.13, parcels not meeting the size criteria were not evaluated further. Parcels meeting the size criteria were evaluated for naturalness (i.e., <i>appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable</i>). Parcels determined to not meet the "naturalness" criteria were considered available for lease in accordance with the governing RMP(s). Parcels where the naturalness could not be determine from "available information (e.g., existing maps, photos, records related to range projects, monitoring)" where proposed to be deferred from the November 2011 lease sale pending completion of a field "check".</p> <p>The EA at Section 4.2.3 concludes that implementing Alternative B, the proposed action, "would not impact wilderness characteristics or preclude the BLM's ability to determine manageability for lands with wilderness characteristics during a land use planning process".</p>
129	<p><u>Biodiversity Conservation Alliance (Molvar):</u> The Green River and Rawlins RMPs were adopted substantially before BLM's latest wilderness inventory manual. These RMPs are quite old and the NEPA analysis that was conducted is even older than the plans. These plans were approved <i>before</i> oil and natural gas of the current scale and impact was on the BLM's radar screen. While there</p>	<p>The Green River RMP was approved in October 1997 and the Rawlins RMP, as revised, was approved in December 2008. Both are within their intended twenty-year lifespan.</p>

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	has been light oil and gas development in Wyoming for decades, today's pace of leasing and drilling wasn't foreseen, indeed, couldn't have even been contemplated, at the time these management plans were developed. It is undeniable that BLM has been under intense pressure to lease every acre of public land which has any potential for future oil and gas development.	
130	<u>Biodiversity Conservation Alliance (Molvar)</u> : In its initial inventorying of the CWP proposed lands in the 1970s under the Wilderness Act of 1964, BLM determined that they did not possess wilderness qualities. Since that time, new information has been provided to BLM regarding these proposed wilderness areas. In approximately 1992 the Sierra Club submitted a citizens' wilderness proposal to BLM which included the Cedar Mountain and Honeycombs areas. In 2004 a more comprehensive citizens' proposal for wilderness areas was submitted to BLM by the Wyoming Wilderness Association. BLM has reassessed these areas for their wilderness qualities since receiving the Wyoming Wilderness Association submission, and now has its own analysis on record. Many years have passed since the initial assessment and inventory by BLM in the 1970s.	Comment acknowledged.
131	<u>Biodiversity Conservation Alliance (Molvar)</u> : Under the Federal Land Policy and Management Act (FLPMA) BLM was required to inventory all roadless areas on public lands over 5000 acres under its jurisdiction and to identify lands which have wilderness characteristics as described in the Wilderness Act of 1964. 43 U.S.C. § 1782(a). In addition, under 43 U.S.C. 1711(a), BLM is required to maintain an inventory of all public lands and their resource and other values, which is to be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.	Refer to the Agency response to comment 128
132	<u>Biodiversity Conservation Alliance (Molvar)</u> : It is imperative that these parcels be withdrawn from the lease sale until such time as BLM has met its legal obligation under FLPMA to re-evaluate these lands for potential inclusion as 'Wild Lands.' At the very least, BLM should consider a "no action" alternative before selling these leases. At the lease stage, the "no action" alternative is, of course, the option of not selling the lease. 42 U.S.C. § 4332(2)(E); 40 C.F.R. § 1502.14(d). Alternatively, BLM should consider an alternative whereby BLM subjects these lease parcels to NSO stipulations. In both situations, BLM would preserve its ability to preclude surface use of these parcels and thereby preserve its ability to properly account for wilderness values through site-specific NEPA analysis.	Refer to Agency response to comment 128. Parcels were either determined to not have lands with wilderness characteristics or they were proposed to be deferred from the November sale. In both cases, imposing a NSO is not warranted. The EA does analyze a "no action" alternative, see Section 2.1.

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133	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: IM 2004-110 Change 1 requires BLM to “evaluate the application of BMPs when taking leasing actions.” (See also WO IM 2004-194.) The Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA) prepared by the Field Offices where these parcels are located give no indication there was any evaluation of applying BMPs to the CWP and WSA parcels in order to protect their values. Because neither the DNAs nor the underlying Resource Management Plans (RMPs) evaluated the application of BMPs to these parcels, IM 2004-110 Change 1 (Change IM) was violated. No evaluation of the potential application of BMPs has occurred prior to offering the parcels for sale.</p>	<p>This comment lacks merit. The parcels proposed for inclusion on the on the November 2011 lease were evaluated through attached EA. There is no DNA for these parcels.</p>
134	<p><u>Biodiversity Conservation Alliance (Molvar)</u>: The leases at issue here contain a number of stipulations intended to protect resources. Many of them are timing limitation stipulations intended to protect big game, sage grouse, or raptors. While these stipulations may help protect these specific resources temporarily, they do not prohibit development; as IM 2004-110 Change 1 recognizes, “[O]ften BMPs, applied as either stipulations or conditions of approval, are more effective in mitigating impacts to wildlife resources than stipulations such as timing limitations or seasonal closures.” Thus, the existing stipulations attached to these parcels are not enough, standing alone, to meet the requirements of the Change IM. <b>BMPs</b> must also be <b>evaluated</b> before leases are offered for sale, and there is no indication this occurred for these parcels. Without identifying and evaluating the efficacy of BMPs before leases are offered for sale, BLM has no idea whether BMPs would be able to mitigate impacts within acceptable limits. <i>See e.g.</i>, 43 U.S.C. § 1732(b) (requiring BLM to prevent unnecessary or undue degradation.).</p> <p>There is no indication BLM identified or evaluated the BMPs referenced in IM 2004-194 in the context of the site-specific conditions and circumstances presented by the delineated lease parcels being offered for sale. BLM did not even evaluate the application of BMPs that should be “considered in nearly all circumstances,” such as requirements for camouflage painting and construction of roads to a standard “no higher than necessary.” Certainly such BMPs can be identified, evaluated, and required, as effectively at the leasing stage as the application for permit to drill (APD) stage. Indeed, a front-end analysis of BMPs provides a measure of certainty for the lessee and, most importantly, may reveal that BMPs, alone, may be inadequate to mitigate impacts within acceptable limits,</p>	<p>Since the five paragraphs in comment 134 are included under the “<b>Wilderness</b>” heading we assume the “leases at issue here” refers to parcel 058-061, 063-065, and parcel 066. As such, we refer the reader to the Agency responses for comments 28, 128, and 132.</p> <p>Concerning BMPs, in general, the EA analyzes impacts to the extent reasonably possible, absent a definitive development proposal. Based on the analysis as mitigated through the stipulations attached to the parcels, see Table 4.1a, Parts 1 &amp; 2, and Appendix B, it was determined that offering, selling, and issuing the proposed lease parcels would not constitute a significant impact and that a FONSI was appropriate. The EA also acknowledges additional NEPA analysis would be necessary once a development proposal was initiated. Through this subsequent analysis additional mitigations and BLM could be developed and/or implemented as conditions of approval to the proposed development. See Sections 4.2.1.4 and 4.2.2.3 for discussions concerning BLMs.</p>

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	<p>thus indicating the need for more robust lease stipulations. Moreover, it may behoove BLM to require the BMPs as a lease stipulation rather than as a condition of approval. Additionally, front-end evaluation of BMPs may indicate that BLM may be unable to mitigate impacts within acceptable limits and, therefore, the lease should either be subject to an NSO stipulation or withdrawn from sale (i.e., through selection of a “no action” alternative).</p> <p>There is no doubt that IM 2004-110 Change 1 is intended to apply to leasing. The IM specifically applies to fluid minerals <i>leasing</i> actions. It is not the intent of the Change IM with respect to BMP evaluation, that it be applied at the APD stage. That had already been very specifically accomplished with IM 2004-194 issued on June 22, 2004. The Change IM was issued on August 16, 2004, <i>after</i> IM 2004-194, to fill in gaps in the <i>leasing</i> program guidance provided by IM 2004-110. Thus, while BLM may further consider and refine BMPs at the APD stage, it nevertheless <i>must</i> evaluate their application at the leasing stage. There is no indication in the Documentations this was done for any of the parcels listed in the table above, despite the clear language in the Change IM that BLM “shall also evaluate the application of BMPs” at the leasing stage.</p> <p>Additionally, there is no question that BLM has ongoing authority and responsibility to consider the wilderness values of an area, especially where an area has been proposed for wilderness consideration by private citizens. IM 2003-275 recognizes this authority and that citizens’ wilderness proposal areas may contain a number of values that are not protected by the above stipulations, such as providing solitude and preserving areas that do not have significant signs of human use or development. The stipulations which would be applied to these parcels do not protect these kinds of values which clearly exist in the CWP parcels. BLM’s failure to evaluate BMPs as a way to protect these values violated IM 2004-110 Change 1 and IM 2003-275.</p> <p>BLM has the ongoing authority and responsibility to consider the wilderness values of an area before it authorizes the sale of leases which intrude upon Citizen Wilderness Proposal areas. The U.S. District Court for the District of Utah recently underscored this duty with its decision in <i>Southern Utah Wilderness Alliance v. Norton</i>, Case No. 2:04CV574 DAK. The Court held that BLM violated NEPA by issuing leases in areas proposed for wilderness without taking a hard look at the no-leasing alternative and by failing to consider significant new information about wilderness values and characteristics of the parcels.</p>	

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135	<u>Biodiversity Conservation Alliance (Molvar)</u> : The Worland Field Office should take the hard look at a no-leasing alternative for these parcels and give adequate consideration to the wilderness values and characteristics of the parcels. All eight of the special values parcels should be withdrawn from the sale.	There are no parcels from the Worland Field Office considered for offer at the November 2011 lease sale.
136	<u>Biodiversity Conservation Alliance (Molvar)</u> : Parcels 70, 71, 97, 105, and 107 appear to be astride the Sublette Cutoff, which is designated as part of the California NHT, and Parcels 69, 72, 73, 99, 100, 101, 103, and 106 appear to be within 5 miles of the trail. Parcels 93, 94, and 104 are across the Ham's Fork Cutoff, and Parcels 93, 95, 96, 102, and 103 appear to be within 5 miles of this trail. Parcels 3, 59, and 68 are astride the Cherokee Trail, which is currently being considered for National Historic Trail designation in the National Park Service's Oregon, Mormon Pioneer, California, and Pony Express Trails expansion feasibility study. Parcels 5, 7, 39, 40, 49, 53, 63, 67, and 77 appear to be within 5 miles of this trail. Parcel 133 lies across another historic trail, while Parcels 116 appear to be within 5 miles of this trail. For these parcels, we recommend a stipulation be attached requiring No Surface Occupancy within 5 miles of the trail and associated historic sites unless intervening topography would shield surface disturbance from sight of the trail.	Refer to Agency responses to comments 79 through 83
<p>Note: The Wilderness Society submitted seven pages of text. Within that text they made a number of highlighted "<b>Recommendations</b>". Only those recommendations are being included in this table/appendix, unless inclusion of supporting text is warranted.</p>		
137	<u>The Wilderness Society (Hayes)</u> : <b>Recommendation:</b> BLM should finalize its decision to defer eighteen parcels from the November 2011 lease sale in order to complete wilderness inventories, as this decision is authorized and required by FLPMA. To ensure consistency with the funding limitation, however, BLM should cite FLPMA as the basis for the decision, rather than BLM Manual 6301. Furthermore, BLM should defer parcel 66 from the sale in order to inventory this parcel for wilderness characteristics.	<p>The comment to finalize the decision to defer eighteen parcels from the November 2011 lease sale in order to complete wilderness inventories is acknowledged. The final disposition of the parcels addressed in EA will be determined when the NEPA process included with the issuance of the Decision Record.</p> <p>Concerning parcel 066, please refer to the Agency response to comment 28</p>
138	<u>The Wilderness Society (Hayes)</u> : BLM should consider additional measures to address potential conflicts between the proposed action and the Jep Canyon Wildlife Habitat Management Area. <b>Recommendation:</b> BLM should defer parcels 042 and 055 from the lease sale, at a minimum, only offer them with NSO stipulations.	The Rawlins RMP makes the Jep Canyon Wildlife Habitat Management Area available for oil and gas leasing with stipulations. Specifically the RMP states, "The area is open to oil and gas leasing. Surface disturbing activities on oil and gas leases will be intensively managed to meet the objectives of the WHMA." Accordingly, both parcels 042 and 055 are encumbered the following controlled surface stipulation to meet the WHMA objective and management

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		<p>action for “intensively managed: “<i>Surface occupancy or use will be restricted or prohibited unless the operator and surface managing agency arrive at an acceptable plan for mitigation of anticipated impacts</i>”. In addition the parcels are also encumbered by other stipulation intended to provide additional protections for the resources within this parcels. Note: parcel 055 is encumbered by an NSO for the Baggs to Rawlins Stage Road that encompasses the entire parcel.</p> <p>This EA tiers to the analysis in the EISs for the governing RMPs, which in the case of the Jep Canyon WHMA is the Rawlins RMP. Under Alternative C of the EIS areas, including the Jep Canyon WHMA, were analyzed as “open to leasing subject to major constraints such as NSO stipulations” (Rawlins RMP/FEIS, pg. 2-35). It is not necessary to repeat that is this EA.</p>
139	<p><u>The Wilderness Society (Hayes)</u>: . . . When resource conflicts are identified through the “site-specific” analysis required by IM 2010-117, BLM must then develop “alternatives to the proposed action that may address unresolved conflicts.” . . .</p> <p>Although BLM identified potential conflicts between the proposed action and several wildlife species in the draft EA, it did not resolve those conflicts in the manner required by IM 2010-117. For example, BLM found that the proposed action “ could cause unnecessary impacts to wintering moose, mule deer, pronghorn, and elk” . . . Similarly, for Greater sage-grouse . . .</p> <p>However, in the draft EA, BLM proposes to resolve those impacts largely, if not entirely, “through seasonal restrictions where applicable.” <i>Id.</i> at 95. This proposal falls well short of complying with IM 2010-117, as well as with NEPA.</p> <p>What is required by the IM and NEPA – and what is missing from the draft EA – is an analysis of whether those season restrictions are likely to be effective and whether they will in fact resolve the conflicts . . .</p> <p><b>Recommendation:</b> BLM should develop and consider a wider range of measures to resolve conflicts between the proposed action and Greater sage-grouse, big game, and other wildlife species. For instance, BLM should consider deferring all parcels within sage-grouse core areas and/or areas that are under consideration for ACEC designation in the Wyoming sage-grouse plan revisions, especially those areas that are largely undeveloped; all parcels within big game crucial winter habitat, especially those area that are specifically designed for the protection of crucial winter habitat, such as Jep Canyon WHMA. In the alternative, BLM should develop and apply stipulations to lease</p>	<p>The comment suggests that BLM develop a separate alternative that would allow leasing with 2 miles of sage grouse leks, within crucial big game winter range, and is essence within the Jep Canyon WHMA. As stated in Sections 1.1 and 4.4 of the draft EA, the EA is tiered to the analysis and alternatives considered in the governing RMP/FEISs. Under the conservation alternative in those EISs, BLM did consider broad application of NSO restrictions for sage grouse and crucial big game winter range. For example, Map for the conservation alternative (Alternative 2) of the Kemmerer RMP/FEIS depicts that virtually all the mineral estate under BLM’s jurisdiction that is available for oil and gas leasing is subject to major constraints; Map 2-37 for the conservation alternative (Alternative C) for the Rawlins RMP/FEIS when compared to sage grouse and big game habitat maps shows again that the alternative shows the vast majority of the crucial winter range and sage-grouse areas within 2 miles of leks was considered for leasing under major constraints (e.g., no surface occupancy); and Map 2-3 for the Pinedale RMP/FEIS again shows that virtually all of the crucial big game winter ranges and 2 mile areas around sage grouse leks were considered for no surface occupancy. Based on the analysis in the FEIS’s and the tiering of the November 2011 Oil and Gas Lease Parcel EA to those documents suffices to meet to suggested NSO alternative analysis.</p> <p>BLM also asserts that through tiering to the governing RMPs/FEISs, in conjunction with the analysis contained in the draft EA itself, the agency has met the requisite of determining the anticipated effectiveness of the stipulations applied to the proposed parcels to mitigate the anticipated impacts.</p>

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	<p>parcels above and beyond what is currently authorized by existing plans, such as applying NSO stipulations to all parcels within 2 miles of known sage-grouse leks and to parcels within big game crucial winter habitat.</p>	<p>As stated in the Agency response to comment 90, parcels that overlap the ACECs currently being considered through the sage grouse RMP amendment to the Kemmerer, Pinedale, Green River, and Rawlins RMPs are proposed for deferral. Additionally, BLM screened all parcels for sage grouse core area, as required through IM WY02010-013. Parcels and those portions of other parcels that fell within core areas and met the 11 sq. mile manageability requirement were identified to be deferred from the November 2011 lease sale. In accordance with IM WY-2010-013 that either did not contain core area or did not meet the manageability criteria were consider available for offer at the November 2011 sale.</p> <p>BLM believes that this EA provides the requisite site-specific analysis required by NEPA and IM 2010-117. It is important to remember that, as stated in the EA, issuing an oil and gas lease is an administrative process that in and of itself does not necessarily result in environmental impacts. During the environmental review process, BLM cannot determine or predict where a given parcel will actually receive qualifying bids at the lease. Parcels frequently do not receive bids. If a parcel does get leased, BLM cannot determine or predict whether or not the lease will be developed. In the event development is proposed, BLM initiates "site-specific" NEPA analysis to address the "on-the-ground" environmental impacts anticipated from the proposed development.</p>
140	<p><u>The Wilderness Society (Hayes):</u> Blowout Penstemon ACEC. . . . There are four parcels nominated to the November 2011 lease within this ACEC (parcels 018, 020, 021, 026) . . .</p> <p><b><u>Recommendation:</u></b> Because the draft EA lacks site-specific information about the blowout penstemon and the impacts of the proposed action on this plant, BLM should defer all four parcels in the Blowout Penstemon ACEC from the lease. This would provide BLM with the time to survey the proposed lease parcels, determine whether leasing as proposed in the draft EA is consistent with the protection of the ACEC values and, if so, what measures to protect ACEC's values.</p>	<p>The descriptions for parcels 018 and 021 were in error, neither parcel falls within the Blowout Penstemon ACEC as depicted on Map 2-9a of the Rawlins RMP/ROD. Only parcel 026 and a portion of parcel 020 fall within the ACEC.</p> <p>Text has been added to the EA concerning the Blowout Penstemon ACEC and anticipated impacts. All portions of the parcels within the ACEC are constrained by a no surface occupancy stipulation.</p>
141	<p><u>The Wilderness Society (Hayes):</u> <b><u>Recommendation:</u></b> Because parcel 068 is located in the Greater Little Mountain MLP analysis area, BLM must defer the parcel from the lease sale.</p>	<p>See Agency response to comments 015, 016, 021, 022, and 026 for additional information pertinent to parcel 068 and the Little Mountain Ecosystem area.</p>
142	<p><u>The Wilderness Society (Hayes):</u> <b><u>Recommendation:</u></b> In the final EA, BLM must acknowledge and explain how it intends to comply with the Green River RMP's management prescriptions for the Special Status (Candidate) Species ACEC. In order to comply with those</p>	<p>Text has been added to the EA concerning the Special Status (Candidate) Species ACEC and anticipated impacts, see Section 4.2.6. All portions of the parcels within the ACEC are constrained by a no surface occupancy stipulation.</p>

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	prescriptions, it may be necessary for BLM to defer all seven of the parcels located in and near this ACEC from the lease sale.	
143	<u>Council of Local Governments (Connelly)</u> : CLG supports resumption of lease sales in Wyoming. For almost three years, the Wyoming BLM has failed to implement the respective RMPs by placing the lease nominations in limbo. Other leases have been offered for sale but were never issued, despite statutory mandates that they should issue within 60 days. <i>See e.g.</i> the pending challenge of this practice, <i>Western Energy Alliance v. Salazar</i> , No. 10-226 (pending D. Wyo.). BLM has also deferred offering leases that were covered by earlier NEPA documents. It is not disclosed in this EA how many such leases remain in limbo.	The November 2011 Lease Parcel EA only addresses parcels that were nominated for the November 2100 lease sale. Unissued parcel from previous were analyzed under their own NEPA documents, as such they appropriately were not included or referenced in this current EA.
144	<u>Council of Local Governments (Connelly)</u> : CLG Supports Alternative C, Modified to Include Unlawfully Deferred Parcels .	Comment acknowledged; however BLM refutes that any parcels are “unlawfully” deferred. In accordance with BLM Wyoming Instruction Memorandum (IM) WY-2010-013, a screening process was conducted for parcel nominated for the November 2011 oil and gas lease sale. The purpose of the screen was to determine if any of the parcels were within the sage-grouse core areas, and if they were is core whether or not they met the 11 sq. mile manageability criteria. In accordance with the IM those parcels/portions of parcels that are within a core area and meet the manageability requirement are proposed to be deferred pending completion of the sage grouse RMP amendment, which is currently being developed. This is also in accordance with Section 102 (8) of FLPMA which states, “the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will pro-vide for outdoor recreation and human occupancy and use;” Also, in compliance with Section 102 (8) and Section 201 of FLPMA, the EA contains screen to verify whether BLM has current inventory data for wilderness characteristics. Where BLM could determine it had the requisite data the parcels were proposed to be offered at the November 2011 lease sale. Parcels in areas where BLM determined it did not have the requisite current inventory data were proposed for deferral from the November sale pending completion of field inventory.
145	<u>Council of Local Governments (Connelly)</u> : This alternative ( <i>referring to Alternative C</i> ) is the only one that	The recommended deferrals do not violate Section 1769 of the 2011 Appropriations Act. Section 1769 withdrew

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	would conform to Section 1769 of the 2011 Appropriations Act, Federal Land Policy and Management Act (FLPMA), and the RMP decisions. Otherwise, the patchwork of lease deferrals violates federal law and the representations that BLM made to the public during the RMP process.	funding for actions related to implementing Secretarial Order 3310. As stated in the preceding, the wilderness screen and the proposed lease deferral based on that screen are in accordance with Sections 101(8) and 201 of FLPMA. The recommended deferrals do not violate the governing RMPs. As the commenter infers, all of the parcels recommended for deferral, are in areas identified in the governing RMPs as “available” for oil and gas leasing and development. Deferring them from the November sale does not change their availability status, it simply postpones when they would be offered. A change in their availability status would require RMP maintenance or amendment.
146	<u>Council of Local Governments (Connelly)</u> : The EA also fails to articulate a rational basis for the deferrals. For example, several identify resource issues but do not consider timing or no surface occupancy stipulations. In short, the deferrals appear to be <i>ad hoc</i> outside of the RMP or other BLM guidance. Several parcels are deferred on the basis of sage grouse habitat that are outside of a core area. Nothing in current guidance suggests a ban on leasing for all sage grouse habitat. The lack of rational basis is more clear in the lease decisions that cite the same resources but offer the lands for sale anyway.	BLM feels that the EA does satisfactorily provide rationale supporting the proposed deferrals. Tables 4.1.a, Parts 1 & 2; and Appendix B provide listings of the stipulations to be applied to the parcels proposed to be offered. They also include the stipulations that are applicable to the parcel proposed for deferral. Based on BLM’s review, all of the parcels recommended for deferral based on the sage grouse core area screen do fall within one of the Wyoming Governor’s Version 3 core areas.
147	<u>Council of Local Governments (Connelly)</u> : The High Desert EA defers parts or all of more than 33 nominated parcels on the basis that they cannot be leased until BLM determines that the public lands are “lands with wilderness characteristics” or “LWCs” in compliance with Manual 63011 and Secretarial Order 3310. EA 29-33, 68, 95, 105. The EA Appendix also employs a wilderness characteristics checklist for each of the lease parcels to be offered. EA, App. D. Because the EA states it is implementing Secretarial Order 3310, BLM cannot now try to argue it can defer lease sales for an inventory under Section 201 of FLPMA, 43 U.S.C. §1711(a).  On April 12, 2011, a full week before BLM released the High Desert EA, Congress adopted the following provision: SEC. 1769. For the fiscal year ending September 30, 2011, none of the funds made available by this division or any other Act may be used to implement, administer, or enforce Secretarial Order No. 3310 issued by the Secretary of the Interior on December 22, 2010.  Notwithstanding the crystal clear language above, Wyoming BLM is proceeding to expend 2011 appropriations following the procedures set out in the Secretarial Order 3310 manuals adopted implementing the order. This is a blatant violation of law and on this basis alone, BLM must revise the deferral decisions.	The EA proposes that 18 parcels be deferred pending completion of field review in compliance with Section 201 of FLPMA to determine if they contain wilderness characteristics. The EA does not state that it is implementing Secretarial Order 3310, it emphasizes that it is complying with Section 201 of FLPMA. The EA does not violate Federal law.  The deferrals proposed through the EA are appropriate and are consistent with law and policy.

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148	<p><u>Council of Local Governments (Connelly):</u> CLG provided BLM with detailed objections to Secretarial Order 3310 on February 14, 2011. The CLG critique of the order and manuals are attached and are made a part of these comments. Even if Section 1769 had not been enacted, implementation of Secretarial Order 3310 violates BLM's limited statutory authority to manage public lands as if they are wilderness.</p> <p>The concerns expressed in the CLG comments were echoed by state and local government officials to the House Resources Committee on March 1, 2011. It is significant that of all the environmental amendments considered as part of the 2011 appropriations bill, Congress passed this one.</p>	Comment acknowledged
149	<p><u>Council of Local Governments (Connelly):</u> The Kemmerer Field Office (KFO) purports to not support lease nominations on the basis that the public lands are in a VRM Class II. <i>See e.g.</i> EA at 41, 45. While the Kemmerer RMP did not permit leases within the historic trail corridors, it allowed leasing within VRM Class II viewsheds, which cover more than 35% of the planning area. Kemmerer RMP at 2-11 (475,352 acres of BLM mineral estate and 347,214 acres of BLM surface). The 'deferral' or withdrawal of these lands from mineral leasing on the basis that they are in VRM Class II is inconsistent with the RMP, BLM handbooks on VRM management, and Wyoming BLM policy. This decision is particular concern, because the KFO retained Class II VRM despite the CLG protest within the Checkerboard lands. Deferring leasing will either interfere with resource development or lead to drainage.</p>	<p>Parcels 098 and 099 described on page 41 of the draft EA, as well as parcel 112 described on page 45 show that all occur within areas designated as VRM Class II through the Kemmerer RMP (2010). Parcels 098 and 099, as well as a portion of parcel 112 are proposed to be deferred from the November 2011 oil and gas lease sale. Parcels 098 and 099 would be deferred pending completion of field review for wilderness characteristics. The portion of parcel 112 that is proposed for deferral contains the pre-historic Bridger antelope trap and would be deferred in accordance with Section III.D of IM 2010-117 pending completion of Native American consultation.</p> <p>There are no parcels proposed from the November 2011 oil and gas lease sale due to its VRM classification.</p>
150	<p><u>Council of Local Governments (Connelly):</u> The EA deferrals also appear to incorporate delays for Master Lease Planning. EA at 11-47 (referring to MLP issue). The MLP Checklist did not recommend additional planning for any of the parcels. EA, App. E.</p> <p>BLM announced "mineral leasing reform" a year ago. Instruction Memorandum 2010-117. BLM did not implement the so-called reform through rulemaking. Instead, BLM evaded the mandatory public comment, publication, and cost impact analysis procedures in the Administrative Procedure Act (APA), 5 U.S.C. §553, in order to rush through the so-called reform. The Federal Land Policy and Management Act (FLPMA) requires that BLM implement its provisions and those of other federal statutes through rulemaking. 43U.S.C. §1740.2</p>	<p>Parcel 068 in the Rock Springs Field Office falls within the Greater Little Mountain area nominated by one or more non-governmental organizations (NGOs) for preparation of a Master Leasing Plan (MLP) under Section II of IM 2010-117. Parcel 068 is proposed to be deferred pending completion of field review for wilderness characteristics.</p> <p>As verified by Appendix E, no parcels on the November 2011 lease list are proposed for deferral for MLP consideration.</p>

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151	<p><u>Council of Local Governments (Connelly):</u> BLM received nominations from the national environmental groups on areas for Master Lease Planning (MLP). <i>See e.g.</i> Greater Adobe Town. The same opportunity to address MLP areas was not provided to the local governments or the state of Wyoming. More importantly, the Wyoming MLP areas correspond directly to those nominations. Had the Governor of Wyoming not filed a Freedom of Information Act request, no one, including the state agencies and local governments would ever have known that the areas being deferred from leasing were based on the environmental group nominations requested by the Assistant Secretary.</p>	Comment acknowledged
152	<p><u>Council of Local Governments (Connelly):</u> <b>B. Deferrals for Master Lease Planning, continued:</b></p> <p>It appears that all of the five parcels pulled from the lease sale or deferred are based on the Greater Adobe Town area. EA at 29-31; 33. As is also well known, Biodiversity Alliance has been campaigning for this area to be closed to mineral leasing. The Rawlins RMP classified the area as suitable and available for mineral leasing. It is also classified as VRM Class III or IV. In short, but for the environmental group's extra-record access to the decision process, the lands would be offered for a lease sale.</p> <p>The MLP deferrals also affect a number of lease nominations. EA at 18-21.</p>	Again we iterate the draft EA makes no proposals to defer any parcels for MLP consideration.
153	<p><u>Council of Local Governments (Connelly):</u> As CLG demonstrated in its Rawlins comments during its participation as a cooperator, the area is already substantially leased. Withholding these lands from a lease sale will interfere with lease development, since operators cannot risk tens of millions of dollars without controlling the land position before drilling. This situation also illustrates how BLM delays preclude lease development and contradict BLM's more recent but inaccurate charges that the oil and gas companies are 'sitting' on the leases.</p>	Comment acknowledged,
154	<p><u>Council of Local Governments (Connelly):</u> <b>C. Historical Trail Corridors not Basis for Deferral</b></p> <p>The respective Kemmerer and Rawlins RMPs only classified land within the corridor as no surface occupancy. Kemmerer RMP at 35; Rawlins RMP at 2-13. Nevertheless, a number of parcels would be deferred solely due to their proximity to an historical trail corridor. EA at 33 (Sublette Cutoff); EA at 45 Bridger Antelope Trap (most of which is located on private land). The Kemmerer RMP calls for no surface occupancy not no</p>	<p>Again we iterate the draft EA makes no proposals to defer any parcels for MLP consideration.</p> <p>Refer to Agency response to comment 149 for basis supporting deferral of parcel 112.</p> <p>It is important to note that, as stated in Agency response to comment 145, the deferring a parcel from the November 2011 oil and gas lease sale, does not change the leasing availability designation in the governing RMP.</p>

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	<p>leasing. Kemmerer RMP 2-70.</p> <p>In addition, there is no basis to assume that the segments of the trail are in fact intact. Wyoming BLM analysis has generally failed to follow the National Park Service guidance, that measures integrity and thus eligibility by evidence showing the trail segments remain visible and intact. <i>How to Apply the National Register Criteria for Evaluation</i>, National Register Bulletin 51 (1995). BLM did not and could not determine that each segment was intact and retained its historic integrity. Because not all of the applicable criteria were used, BLM cannot use the historical trail or site as a basis for lease deferral.</p>	
155	<p><u>Council of Local Governments (Connelly)</u>: The EA does not identify whether the lands adjacent to the deferred parcels can be developed so as to create a risk of drainage. There is one admission that deferral may lead to drainage. EA at 32.</p>	<p>Section 4.2.18.A of the draft EA discusses drainage and identifies those parcels where drainage could be concern if they were not offered for lease. Additional text has been added to this EA section.</p>
156	<p><u>Council of Local Governments (Connelly)</u>: VI. Deferral Is a Withdrawal Without Complying with FLPMA Procedures</p> <p>FLPMA provides that BLM must follow withdrawal procedures. Section 204 of FLPMA governs the withdrawal procedures. Section 204(c) applies virtually all mineral closures involving more than 5,000 acres; 43 U.S.C. §1714(c).</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, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472) from one department, bureau or agency to another department, bureau or agency. 43 U.S.C. §1702(j).</p> <p>A mineral lease is a sale of an interest in federal land; the mineral rights for oil and gas or coal for a stated term. When parcels of lands are offered for leasing, the list is called a lease sale list and a mineral lease is thus a "sale of public lands."</p> <p>The Mineral Leasing Act is a public land law that provides for the orderly sale of the rights to develop oil and gas. Any decision of BLM to withhold public lands from sale under the Mineral Leasing Act to protect culture, wildlife,</p>	<p>Making Federal lands and minerals available for oil and gas leasing is a discretionary action authorized to the Secretary of Interior through Section 13 of the Mineral Leasing Act of 1920, as amended. It is within the Secretary's discretion to make certain areas unavailable to leasing. It is also within the purview of this authorization to defer parcels from a given sale with supporting rationale. Section 226(a) of the MLA grants the Secretary broad discretion to decide whether and when to lease parcels of public land for oil and gas development, and reads "All lands subject to disposition under this chapter which are known or believed to contain oil or gas deposits <i>may be leased</i> by the Secretary (emphasis added)." 30 U.S.C. § 226(a).</p> <p>The Federal Onshore Oil and Gas Leasing Reform Act (FOOGLRA) of 1987 retained that discretion, and many past cases found that while Section 226(a) gives the Secretary discretion to lease government lands for oil and gas development, it does not require leasing. <i>McDonald v. Clark</i>, 771 F.2d 460, 463 (10th Cir. 1985); <i>Burglin v. Morton</i>, 527 F.2d 486, 488 (9th Cir. 1975) ("[t]he permissive word 'may' in Section 226(a) allows the Secretary to lease such lands, but does not require him to do so."). Courts have long found Section 226(a) gives the Secretary "broad 'discretion to refuse to issue any lease at all on a given tract.'" <i>Justheim Petroleum Co. v. Dep't of Interior</i>, 769 F.2d 668, 670 (10th Cir. 1985) (quoting <i>Udall v. Tallman</i>, 380 U.S. 1, 4 (1965)); <i>Bob Marshall Alliance v. Hodel</i>, 852 F.2d 1223, 1230 (9th Cir. 1988) (citing Section 226(a) of the MLA and holding that "refusing to issue the Deep Creek leases . . . would constitute a legitimate</p>

## Appendix F Public Comments and Agency Response

#	Comment	Response
	<p>and wilderness values falls squarely within the definition of a withdrawal under FLPMA.</p> <p>The deferral decisions are <i>de facto</i> withdrawals as recognized by the Wyoming federal court as being subject to Section 204. <i>Mountain States Legal Foundation v. Andrus</i>, 499 F. Supp. 383 (D. Wyo 1980) ("MSLF I") (deferring action on mineral lease applications pending RARE II violated §204); and <i>Mountain States Legal Foundation v. Hodel</i>, 668 F. Supp. 1466 (D. Wyo. 1987) ("MSLF II") (deferring mineral lease applications pending completion of EIS and land use plans violated Section 204). The United States never appealed either decision and instead proceeded to process the pending lease applications.</p>	<p>exercise of the discretion granted to the Interior Secretary under that statute”).</p> <p>Section 204 of FLPMA is invoked when an area greater than 5000 acres would be made unavailable to non-discretionary actions, such as the right to file a mining claim under the 1872 mining law. Since determining whether to make certain lands available or unavailable regardless of the size of the area is a discretionary act authorized to the Secretary of Interior it is not bound by Section 204 of FLPMA. As an example, the 2008 Pinedale RMP under the Secretary’s authority made 441,000 acres unavailable for oil and gas leasing for the life of the plan without invoking the withdrawal requirements of Section 204 under FLPMA.</p> <p>The commenter’s assertion that selling a lease equates to a sale of public land is flawed. What is conveyed at the consummation of the lease “sale” is a ten-year lease, not a deed or patent. It is analogous to a hunting lease on private land. The lease provides for certain use and extraction of the lands, but conveys no ownership.</p>
157	<p><u>Council of Local Governments (Connelly):</u> VII. CLG Objection to Closure of Upper Muddy Creek/Grizzly WHMA to Leasing CLG consistently objected to and protested the closure of the Upper Muddy Creek/Grizzly WHMA to leasing. The EA implements this flawed decision without analyzing impacts on existing lease development or the risk of drainage. EA at 6.</p>	<p>Determining whether or not an area is open or closed to oil and gas leasing is a land use planning decision made through RMP process. The decision concerning the availability of the Muddy Creek/Grizzly WHMA was appropriately analyzed and made through the 2008 Rawlins RMP/EIS. Because the leasing closure was analyzed through draft and final EISs for RMP it does not require revisiting through this EA.</p>
158	<p><u>Council of Local Governments (Connelly):</u> An EA will be affirmed only when BLM can establish that the proposed action will not have a significant environmental impact. . .</p> <p>The EA falls short of the required thorough discussion of mitigation measures that would support the determination that all impacts had been mitigated to insignificance. Aside from the air quality and so-called climate change discussions, the EA has no discussion of how the identified impacts on wildlife and soil resources will be reduced to insignificance. Draft EA at 95 (referring reader to appendix of stipulations). Reliance on the Gold Book Best Management Practices is not responsive. Future actions that lack performance standards are too speculative. The Gold Book measures are a mix of standards and guidelines, rather than lease stipulations. <i>Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development The Gold Book</i> 4th Edition- Revised 2007 at 2. A general enumeration of possible mitigation is not sufficient in the context of</p>	<p>As stated in Sections 1.1 and 4.4 of the draft EA, the EA is tiered to the analysis and alternatives considered in the governing RMP/FEISs. BLM asserts that through tiering to the governing RMPS/FEISs, in conjunction with the analysis contained in the draft EA itself, the agency has met the requisite of determining the anticipated effectiveness of the stipulations applied to the proposed parcels to mitigate the anticipated impacts.</p>

**Appendix F**  
**Public Comments and Agency Response**

#	Comment	Response
	justifying the use of an EA instead of an EIS. <i>Cabinet Mountain Wilderness v. Peterson</i> , 685 F.2d 678, 681-82 (D.C. Cir. 1982); <i>Nez Perce Executive Committee</i> , 12 IBLA 34 (1991) quoting <i>California Wilderness Coalition</i> , 98 IBLA 314, 319 (1987) (EA must make convincing case that the changes in the project are minimized so any impact is insignificant).	

