August 2012 Oil and Gas Leasing EA Comments and Responses

Note: some comments received were already addressed in previous lease sales and those comments are not being carried forward into this document

#	Commentor	Commentor #	Comment	Response
1	Trout Unlimited	TU1	TU would like to see increased buffers placed on rivers and streams containing coldwater fisheries. These parcels include: WY-1208-022, WY-1208-033-039. The Casper Field Office, under the 2007 RMP includes and NSO stipulation to 500 feet and a CSU stipulation to .25 mile, on Class 1 and 2 waters. TU recommends the BLM adjusts the NSO buffer to be placed on Class 1 and 2 waters from 500 ft to .25 miles. The 2020-117 IM supports the BLM's ability to revise, alter, or create new stipulations based on the adequacy of current stipulations in the RMP's. Below we provide supporting evidence for this change as well as a brief discussion as to the importance of these fisheries. These parcels are all are within the North Platte watershed, with parcels WY-1208-022, WY-1208-33-38 being near Guernsey State Park and parcel WY-1208-039 located near Glendo Reservoir. These reservoirs and their associated tail waters are important recreational fisheries within the state of WY. The North Platte above Glendo reservoir contains brown and rainbow trout and below the dam to Guernsey State Park there are brown, rainbow and cutthroat trout. Recent drought conditions had caused fishing in this area to be inconsistent but in recent years, with more water, the fisheries have rebounded and afforded excellent angling opportunities. Oil and gas development has the potential to negatively impact these fisheries and implementing stronger buffers would prevent unnecessary impacts while still allowing responsible energy development.	Beyond the scope of this document. Class I & II water buffer restrictions can only be changed through the RMP revision or amendment process.

2	Powder River Basin Resource Council	PRBRC1	The leasing actions BLM proposes would occur within the Buffalo, Casper, Newcastle, Cody, Lander and Worland field office boundaries. The actions proposed would result in horizontal shale oil and gas drilling that involve the extensive use of new hydraulic fracturing (also known as “fracking”) techniques which have not been analyzed or disclosed. In addition, the hydraulic fracking techniques require enormous volumes of water for fracking operations and huge volumes of contaminated flowback water that will need to be disposed of and the EISs and the RMPs tiered to these EAs have not analyzed, addressed or disclosed the reasonably foreseeable environmental impacts associated with horizontal oil and gas wells and associated hydraulic fracking, water use and water disposal... The proposed Action/Alternatives would affect resources which are not described in the EA. Neither the EA nor the associated RMPs and their respective EISs address the environmental impacts associated with the drilling and fracking of oil and gas horizontal wells. There is no analysis of the chemicals, the process, the volumes of water required and where the contaminated flowback water will be disposed of... The proposed actions can impact public health and safety through the use of hydraulic fracturing chemicals and the loss or contamination of freshwater aquifers. The proposed actions can also impact public health and safety through extensive air quality impacts and greenhouse gas emissions from oil and gas production that are not analyzed. 3. The degree to which the effects on the quality of the human environment are likely to be highly controversial. The extent of the impacts of hydraulic fracking on public health and the environment are unknown and highly controversial. BLM has failed to disclose or address those disputes and controversies in these EAs or previous EISs for the RMPs. The disclosure of chemicals used in hydraulic fracking, the requirement, use and availability of freshwater resources and the proper disposal of fracking fluid are also unanswered and controversial. 4. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks. The impacts of hydraulic fracking of oil and gas horizontal wells, including the process and the consumption of freshwater resources and disposal of contaminated water are both uncertain and involve unique or unknown risks. Those are unique risks and impacts the BLM has failed to disclose or analyze in these leasing EAs and in the associated EISs for the RMPs... The action of leasing more lands for oil and gas development without consideration of the large scale impacts of hydraulic fracturing, freshwater consumption and disposal of contaminated water leads BLM to a predetermined outcome in future leasing and permitting activities. This is especially important in the case of the Buffalo RMP where horizontal drilling is not currently considered in the reasonably foreseeable development (RFD) scenario. The RFD scenario is being updated through the RMP revision and related EIS, but in the meantime, BLM leasing actions may foreclose impacts analysis and/or consideration of options to mitigate those impacts.	Fracking and Methanogenesis are downhole actions that do not necessarily impact surface resources. They may impact groundwater, but that is under the purview of the State of Wyoming and therefore would be under their permitting authority. Hydraulic fracturing is not "new". Fracturing dates from its first use in 1947. Since 1949 about 2.5 million wells received hydraulic fracturing, permitting the economic recovery of 9 billion barrels of oil and 700 Trillion Standard Cubic Feet (Tscf) of gas in the US alone. Fracking and Methanogenesis are specific development scenarios that will be analyzed at their appropriate APD or project stage with the necessary NEPA document. The impacts to groundwater are also analyzed

3	Powder River Basin Resource Council	PRBRC2	Additionally, specifically regarding sage grouse protections, the EIS for the Buffalo RMP has failed to address or disclose the extensive impacts of oil and gas drilling on sage grouse habitat, the already extensive loss of sage grouse habitat from oil and gas drilling and the very real potential for extirpation of sage grouse in the Powder River Basin... In addition, the failure of the BLM to consider the impacts of additional leasing outside sage grouse core areas in the Powder River Basin without consideration of extirpation of the sage grouse represents a decision that forecloses BLM's future options for preserving additional crucial habitat for the species and in turn, the species itself... The sage grouse is a BLM listed sensitive species and is a candidate species for the Endangered Species Act list. This action will adversely impact sage grouse habitat and especially in the Powder River Basin to the extent that sage grouse will be extirpated in the Powder River Basin and that extirpation will lead to a listing of the sage grouse as endangered.	NEPA prescribes limitations on the actions that agencies may take while preparing environmental documents. The regulations implementing NEPA require that "agencies shall not commit resources prejudicing selection of alternatives before making a final decision . . . ." and that until a record of decision is issued no action concerning the project can be taken which will "have an adverse environmental impact" or "[l]imit the choice of reasonable alternatives." 40 C.F.R. §§ 1502.2(f), 1506.1(a)(1)-(2). Additionally, 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." BLM must abide by these policies and regulations. See page 14, Section 2.4, for a discussion of parcels deferred within Sage-grouse Core Areas. The BLM did consider deferring all parcels within Sage-grouse habitats. All parcels were analyzed through the Oil and Gas Leasing Screen for Greater Sage-grouse (IM WY-2010-013). Only parcels that
4	Powder River Basin Resource Council	PRBRC3	Finally, this BLM EA and the BLM RMPs it is tiered to, do not address the large volume of federal orphaned, abandoned and idle wells that have not been reclaimed and the resulting long term impacts to private property split estate owners and public lands. The BLM RMPs have failed to address the cost of reclamation of oil and gas wells, the lack of federal bonding to cover reclamation and the failure of the BLM to ensure reclamation of disturbed and damaged lands due to BLM authorized oil and gas drilling. The BLM fails to address how BLM will ensure previous leased lands are reclaimed and BLM fails to disclose or account for oil and gas wells on those lands that have not been reclaimed prior to more leasing. Further, the BLM has no established funding mechanism to ensure reclamation of previously leased and drilled lands nor does BLM disclose, analyze or discuss the fact there is no funding mechanism for reclamation of land and plugging of wells from bankrupt companies... Further there is no analysis of the extent of orphaned, abandoned and idle wells and the lack of reclamation and how BLM will ensure reclamation takes place. BLM does not disclose that they have no funding mechanism for abandoned and unreclaimed oil and gas wells and has little or no likelihood of passing a budget to cover those costs. These are reasonably foreseeable adverse impacts that should be disclosed in NEPA analysis and warrant an EIS... Finally, the action by the BLM to lease more lands for oil and gas drilling without analysis or consideration of the thousands for oil and gas wells that have not been reclaimed and without a plan in place to ensure reclamation is establishing a precedent for future actions that have significant impacts.	Beyond the scope of this document. See pages 8, 9, and 10, Section 1.6, for a discussion of development in relations to leasing. Since development cannot be reasonably determined at the leasing stage, the impacts cannot realistically be analyzed at this time. At the time of APD development an analysis of these resources will be completed.

5	Powder River Basin Resource Council	PRBRC4	The impacts to air quality are also uncertain and involve unique and unknown risks. Air quality monitoring data is limited in much of Wyoming and modeling analysis is rarely updated for EAs. Please confer with your sister agency, EPA, to identify the lack of air quality information available and/or what unknown risks will occur as a result of a greater intensity of oil and gas development in Wyoming.	Air Quality was addressed and analyzed under each specific, identified Resource Management Plan. Further information was clarifed in the EA to supplement that analysis. See EA, Chapter 3, Affected Environment, pages 17-24, 3.3.1. Air Resources, and EA, Chapter 4, Environmental Impacts, pages 44-50, Air Resources. Also see pages 8, 9, and 10, Section 1.6, for a discussion of development in relations to leasing. Since development cannot be reasonably determined at the leasing stage, the impacts to air quality cannot realistically be analyzed at this time. At the time of APD development an analysis of this resource will be
6	Powder River Basin Resource Council	PRBRC5	The EAs also fail to address the correct number of producing oil and gas wells and the resulting socio-economic impacts of a boom bust scenario set in motion by BLM leasing actions which fail to address whether there is an actual need for additional leasing. For example, there are over 10,000 CBM wells currently idle and shut in due to low gas prices in the Powder River Basin. There are currently only about 12,000 producing CBM wells in the PRB. The EAs also fail to discuss or analyze the enormous number of expired permits BLM has issued that have not been developed. According to data on the Wyoming Oil and Gas Commission website there are over 17,000 expired federal permits for CBM just in the PRB. BLM failure to analyze the real need for additional leasing leads to and sets up a boom bust scenario. This leads to uncertain and unique socio-economic impacts to the local communities and the state. In addition BLM is not prepared to address the bankruptcy issues associated with failing natural gas prices and the failure of industry to reclaim damaged lands from oil and gas drilling.	Beyond the scope of this document. See pages 8, 9, and 10, Section 1.6, for a discussion of development in relations to leasing. Since development cannot be reasonably determined at the leasing stage, the impacts cannot realistically be analyzed at this time. At the time of APD development an analysis of these resources will be completed.
7	Powder River Basin Resource Council	PRBRC6	This leasing action is related to coal leasing, underground coal gasification proposals and uranium leasing and mining proposals, enhanced CO2 oil and gas recovery and coal to gas bio-conversion projects – there are cumulative significant impacts with these connected actions. None of these cumulative impacts are discussed in the EA.	Beyond the scope of this document. See pages 8, 9, and 10, Section 1.6, for a discussion of development in relations to leasing. Since development cannot be reasonably determined at the leasing stage, the impacts cannot realistically be analyzed at this time. At the time of APD development an analysis of these resources will be completed as applicable.

8	Biodiversity Conservation Alliance	BCA1	There seems to be some disagreement in numbering between the EA and the Sage Grouse checklists attached as appendices to the EA; we are addressing perceived discrepancies in these comments as best we can.	Information provided is not adequate to address comment.
9	Biodiversity Conservation Alliance	BCA2	Parcels 79, 88, 92, 93, 98, 99, and 101 appear to be within sage grouse Core Areas according to BLM documents but are not slated for deferral. These parcels should be deferred pending completion of the Sage Grouse Plan Amendments, in order to preserve options and maintain decision space so that the BLM may consider the broadest array of options under the Plan Amendments, including Sage-Grouse National Technical Team recommendations1 and 'no leasing.' Under IM 2004-110 Change 1, the BLM has the discretion to do this regardless of whether such changes are part of a Preferred Alternative or not	The Sage-grouse leasing screen was followed from IM 2012-019. The parcels in question did not meet the screening criteria and therefore were offered for sale.
10	Biodiversity Conservation Alliance	BCA3	The Buffalo, Casper, and Newcastle Field Offices should each be preparing proposals for Sage Grouse ACECs, and if they are neglecting this responsibility, they should begin now to remedy the deficiency. BLM should consider whether any parcels fall within proposed Sage Grouse ACECs. In the forthcoming RMP revisions, it is our expectation that the BLM will be considering the designation of several Core Areas as Sage Grouse ACECs, to be managed for no future leasing for oil and gas development.	Beyond the scope of this document.
11	Biodiversity Conservation Alliance	BCA4	BCA recommends against the sale of any 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 or deferral pending the outcome of the Sage Grouse Plan Amendment EIS.	The Sage-grouse leasing screen was followed from IM 2012-019. The parcels in question did not meet the screening criteria and therefore were offered for sale.
12	Biodiversity Conservation Alliance	BCA5	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. 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.	Beyond the scope of this document. Sage-grouse buffer and timing restrictions can only be changed through the RMP revision or amendment process. Currently the BLM in Wyoming is amending six RMP's for Sage-grouse conservation.

13	Biodiversity Conservation Alliance	BCA6	Big Game Parcels 85, 98, and 99 appear to involve antelope crucial winter range. The WGFD has been very parsimonious in designating crucial winter range in northeast Wyoming, with the result that the range so designated is small in area and sparsely distributed across the landscape. The scarcity of crucial winter range in this part of the state makes it disproportionately important to the survival of herds. Given that an RMP revision is underway in the Buffalo Field Office, 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. A comprehensive analysis of the level of crucial winter range conservation necessary to maintain herd populations at or above targets needs to be undertaken in the context of the RMP revisions that are currently underway; we urge BLM to defer such parcels until the revisions are complete, in order to avoid foreclosing on options for conservation. BCA was a party to an appeal filed with the Interior Board of Land Appeals of the BLM's denial of their Protest filed against the June 6, 2006 lease sale. In its April 2008 Decision,11 the Board inquired into whether BLM had complied with the Memorandum of Understanding between BLM and the Wyoming Game and Fish Department in regarding lease parcels in big game crucial winter range and parturition areas. The BLM is required to have a rational basis for its decision to issue leases in crucial wildlife habitat, and that basis must be supported by the agency's compliance with applicable laws. While the Board held that failure of BLM to follow the directives contained in Instruction Memorandum No 2004-110 Change 1 was not, standing alone, proof of the violation of law or discretionary policy, it was probative of whether BLM had a rational basis for its decision. The Board found that the appeal record presented no evidence of compliance with the Memorandum of Understanding.	The parcels in question are located in the Casper Field Office, not the Buffalo Field Office. The Casper Field Office is not addressing big game crucial winter range stipulations in the Sage-grouse RMP amendment.
14	Biodiversity Conservation Alliance	BCA7	Raptors Parcels 19-22, 30-38, 43, 44, 46, 50, 53, 59, 61-63, 66-75, 77-79, 81, 82, 87, 89-91, 96-98, 100, 101, and 395 appear to involve parcels with raptor nests and/or bald eagle roost sites. We are concerned that the stipulations to protect nesting and roosting birds of prey are not adequate. They should be strengthened so that the nest success of birds of prey can be assured. According to the EA, Surface disturbing and/or disruptive activities from February 1 to July 31, may cause impacts to nesting raptors, if present. The primary impact would be from nesting disturbance which could result in nest abandonment and/or increased chick mortality. Raptors such as ferruginous hawks, golden eagles, and bald eagles are more sensitive to vehicular traffic than are others. Site-specific wildlife surveys are typically required at the APD stage. EA at 55. This is a significant impact requiring an EIS, and also indicative of the inadequacy of BLM's nest site stipulations. We recommend attaching stipulations requiring NSO within 1 mile of raptor nests and roost sites, or within 2 miles of nest sites in the case of ferruginous hawks, ba applied to these parcels.	Beyond the scope of this document. Raptor buffer and timing restrictions can only be changed through the RMP revision or amendment process.

15	Biodiversity Conservation Alliance	BCA8	Historic Trails Parcels 12, 22, 33, 34, 35, 36, and 38, are within the Spanish Diggings Historic Landscape. We are not convinced that the designated 3,937 acres designated by BLM as the quarry area contributing to the eligibility of this area is adequate to protect the historic resources in question, and recommend that a stipulation be added requiring on-the-ground archaeological site clearance for all leases in this area and NSO be applied for lands within 5 miles of NRHP-eligible sites that are identified as a result of such surveys.	Intensive archeological inventory is required prior to surface disturbing activity associated with the development of all oil and gas leases at the APD stage. Inventories are related directly to the area of potential effects, rather than the entire lease area. Lease stipulations (such as the application of an NSO) cannot be added after the issuance of a lease. All leases issued by BLM contain a stipulations that stats (in part): "The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated." BLM can effectively avoid or mitigate impacts to eligible sites within the Spanish Diggings Landscape and a five mile NSO is not
16	Biodiversity Conservation Alliance	BCA9	Parcels 17, 18, 36, 37, 68, 84, and 97 appear to affect the Bozeman, Bridger, or Oregon-Mormon-California historic trails. 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 trails.	The EA identified historic trails as occurring within parcels 17, 18, 36, 37, 68, 84, and 97. CSU and/or NSO lease stipulations (including NSO restrictions for specific trail segments and CSU restrictions within 3 miles of specific trails) related to the protection and preservation of these trails were developed in the CFO and BFO RMPs and will be attached to each parcel as appropriate. Please refer to the EA for specific examples of these lease stipulations. With the addition of these stipulations, BLM can effectively avoid or mitigate impacts to historic trails and a five mile NSO is not necessary.

17	Yankton Sioux Tribe THPO	Yankton Sioux Tribe THPO1	I request that alternative A, the No Action, no parcels would be offered for lease until appropriate tribal consulatation occurs, as we all know an archeological report is far from a traditional cultural properties survey, our cultural resources are within the lanscape and on it. The Yankton Sioux Tribe cannot concur or give any comment until we are given the apportunity to survey the lands. I request an additional 30 days to review the EA. Then Im sure to request formal consultation after I have had time to review it.	A thirty day extension to allow for additional review time will not be granted. With the implementation of Leasing Reform, there will be another opportunity to review the EA and provide comments to the Wyoming BLM State Director, who makes the final decision on offering a parcel for oil and gas leasing. The Wyoming BLM State Office will post the EA for review on or about May 9, 2012. As stated in the EA, "…the High Plains DO has made a reasonable effort to identify known TCPs and sacred sites in consultation with the SHPO and tribes during the land use planning process and during the analysis for this document; intensive field inventories covering entire lease parcels for this proposed lease sale is unnecessary to satisfy BLM's Section 106 obligations. Additionally, the special lease
18				
19				
20				