

APPENDIX F

for the

**November 2012 Lease Parcels
(DOI-BLM-WY-040-EA1-130)**

Public Comments and Agency Response

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#	Comment	Response
1	<p>We commend the BLM for deferring the parcels within the Greater Little Mountain Area, namely: WY-1211-051, WY-1211-052, WY-1211-053, WY-1211-054, WY-1211-055, WY-1211-056, WY-1211-057, WY-1211-058, WY-1211-060, and WY-1211-061. We feel these decisions reflect a sober and well considered management strategy in light of the region's unique wildlife and recreation values.</p>	<p>Thank you for your comment.</p>
2	<p>We would like to express appreciation for BLM's decision to not offer the Jack Morrow Hills and Little Mountain area parcels.</p> <p>We caution BLM to not offer these parcels for sale in the future to avoid legal confrontation and BLM should instead focus on leasing in less controversial areas.</p>	<p>Thank you for your comment. Future lease sales will be conducted in accordance with RMPs.</p>
3	<p>BLM is proposing to sell a number of parcels in the Adobe Town area in the Rawlins Field Office. These include WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035. We object to the sale of these parcels and oppose energy development in this area.</p> <p>The area is replete with special resource values and special areas. Current stipulations attached to the lease parcel descriptions do not recognize many of these special management areas (SMAs) or the management direction they establish.</p>	<p>Parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 are recommended for deferral from leasing per WO IM-2010-117 due to parcels being within the Adobe Town Dispersed Recreational Use Area (DRUA). The DRUA is being evaluated as part of the ongoing Visual Resource Management planning amendment to the 2008 Rawlins Resource Management Plan. The EA and appropriate appendices have been updated.</p>
4	<p>The sale of parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 as currently stipulated would be contrary to the policy for oil development in this area as evidenced in BLM's recently released 2012 Oil Shale and Tar Sands Draft Programmatic Environmental Impact Statement (Oil Shale PEIS).</p> <p>As noted in the Oil Shale PEIS, the Adobe Town Very Rare or Uncommon Area is "located within a much larger area of land that has been identified as having wilderness characteristics (Oil Shale PEIS at 3-34).</p>	<p>Parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 are recommended for deferral from leasing per WO IM-2010-117 due to parcels being within the Adobe Town Dispersed Recreational Use Area (DRUA). The DRUA is being evaluated as part of the ongoing Visual Resource Management planning amendment to the 2008 Rawlins Resource Management Plan.</p>

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	<p>The protested parcels are located within the Adobe Town Very Rare or Uncommon Area or in lands with wilderness characteristics as recognized in the Oil Shale PEIS and should not be available for leasing.</p>	<p>The EA and appropriate appendices have been updated.</p> <p>The Draft EIS for Oil Shale does not have a Record of Decision and has not amended any of the land use plans.</p> <p>The sale of the November 2012 parcels does not impede the BLMs ability to select any of the alternatives in the Oil Shale EIS.</p>
5	<p>We protest the sale of parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035, because to pursue sale of these parcels is not in accordance with the settlement in the Rawlins RMP litigation (Natural Resources Defense Council et al. v. Bureau of Land Management) which challenged BLM's approval of the Rawlins RMP in 2008.</p> <ul style="list-style-type: none"> • Under the terms of the settlement, BLM agrees to take several actions relative to recognizing, if not protecting, wilderness qualities in the Adobe Town area. The BLM will consider designating the Adobe Town Dispersed Recreation Area as a visual resource management (VRM) class II area and areas beyond the Adobe Town Wilderness Study Area (WSA) as VRM class I. • BLM also agrees to abide by Instruction Memorandum 2011-154 which will require BLM to maintain an inventory of wilderness characteristics in Adobe Town and other areas in the Rawlins Field Office. 	<p>Parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 are recommended for deferral from leasing per WO IM-2010-117 due to parcels being within the Adobe Town Dispersed Recreational Use Area (DRUA). The DRUA is being evaluated as part of the ongoing Visual Resource Management planning amendment to the 2008 Rawlins Resource Management Plan. The EA and appropriate appendices have been updated.</p> <p>The Rawlins Field Office is in compliance with the policies of IM-2011-154 and is maintaining on a continuing basis a LWC inventory. The July 2011 LWC inventories for parcel areas were reviewed and determined to be adequate (See Sections 3.2.2.4 and 4.2.3 of the EA).</p>
6	<p>We protested the May, 2012 lease sale. BLM on April 30, 2012 issued a decision on our protest, rejecting all of our arguments. We urge BLM not to repeat this faulty decision making here. We provided input stating that the reasoning and rationale for the May, 2012 lease sale protest decision is flawed.</p>	<p>The May 2012 lease sale is a separate action from this document and will not be addressed here.</p>

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7	<p>Parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 have a number of other special values that make leasing at this time inappropriate. Oil and gas development in this area could impact many sensitive resources as indicated by the stipulations applied to the lease parcel descriptions.</p> <p>Many of these parcels are within the citizen’s proposed Kinney Rim South wilderness area although BLM in 2008 rejected the view that Kinney Rim South had wilderness values. This view is not shared by many in the environmental community and as noted the Oil Shale PEIS has adopted this view – according to BLM’s national office, these areas have wilderness characteristics despite what the Rawlins and Rock Springs Field Offices may have concluded.</p>	<p>Parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 are recommended for deferral from leasing per WO IM-2010-117 due to parcels being within the Adobe Town Dispersed Recreational Use Area (DRUA). The DRUA is being evaluated as part of the ongoing Visual Resource Management planning amendment to the 2008 Rawlins Resource Management Plan. The EA and appropriate appendices have been updated.</p> <p>Lands with Wilderness Character are adequately addressed in Sections 3.2.2.4 and 4.2.3.</p>
8	<p>The BLM is to consider under the terms of IM 2010-117 whether in undeveloped areas, non-mineral values are greater than mineral development values. It is BLM’s job to consider these values and make a determination, the RMP made no analysis of the specific conditions related to these specific parcels. We remind BLM that the lease reform IM states, “Under applicable laws and policies, there is no presumed preference for oil and gas development over other uses.” IM 2010-117 at 85.</p> <p>BLM has not complied with IM 2010-117 by not considering whether offering the parcels have non-mineral values that are greater than mineral development values; whether access roads to isolated parcels would have unacceptable impacts on important resource values; or whether unacceptable impacts to specially designated areas would occur.</p>	<p>All of the parcels included for consideration are located in areas that are open to oil and gas leasing, as identified in the existing Resource Management Plans. Each of the parcels was reviewed by an Interdisciplinary team for resource conflicts and potential impacts and recommendations for deletion or deferral have been identified in the EA.</p> <p>Where parcels have been determined to be eligible for leasing, stipulations to mitigate for resource impacts have been identified as appropriate.</p>
9	<p>It is not appropriate to lease these parcels for sale while the Rawlins RMP is undergoing an amendment. Complete consideration of sage grouse, proposed ACECs, and VRM classifications must first take place. IM Nos. 2004-110 and 2004-110 change 1 provide authority for this view. Additional NEPA analysis prior to leasing is required when new information comes to light and BLM State Directors “have discretion to temporarily defer leasing on specific tracts of</p>	<p>Parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 are recommended for deferral from leasing per WO IM-2010-117 due to parcels being within the Adobe Town Dispersed Recreational Use Area (DRUA). The DRUA is being</p>

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	<p>land based on information under review during planning.” (IM 2004-110 change 1).</p> <p>Accordingly, lease parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 should not be offered for sale at this time.</p>	<p>evaluated as part of the ongoing Visual Resource Management planning amendment to the 2008 Rawlins Resource Management Plan. The EA and appropriate appendices have been updated.</p> <p>All parcels have been analyzed consistent with WY-IM-2012-019 ‘Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate’ to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed.</p>
10	<p>The EA identifies deferrals for revision of the RMPs, for sage grouse, modifications for lands with wilderness character (LWCs), and the Greater Little Mountain Area Master Lease Plan (MLP). We are concerned such deferrals unnecessarily delay drilling and development, and adversely affect the region’s economy.</p>	<p>The BLM is deferring the leasing of these parcels to ensure a full range of alternatives are available in the ongoing RMP Amendments and the Green River RMP Revision.</p>

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11	<p>We support effective restoration and weed control efforts. Even minor disturbances can create opportunity for invasive, non-native species to take hold. Halogeton and cheat grass spread aggressively, impact (and kill) sheep and cattle and crowd out desirable vegetation for wildlife and domestic livestock. Lincoln and Sweetwater County already have a serious problem with cheat grass and Halogeton.</p> <p>We recommend allowing for a mix of non-native and native seed, site preparation, monitoring and reseeding if needed.</p>	<p>Thank you for your comment. Additional site specific NEPA analysis will occur at the development phase and will address site-specific reclamation issues. All reclamation efforts will be consistent with BLM Reclamation Policy.</p>
12	<p>Livestock grazing is an essential part of the custom and culture of all counties within the High Desert District. Ranches operating within areas where lease parcels are proposed poses a potential threat of disruption to ongoing grazing. Mitigation measures should require reclamation and revegetation of all disturbed areas and should pay for loss of forage, livestock, and structures due to oil and gas development.</p> <p>Livestock permittees and local governments should be coordinated with during oil and gas development and reclamation activities.</p> <p>Lease sales should be subject to stipulations that will protect ranch and livestock water from adverse impacts.</p>	<p>All of the parcels included for consideration are located in areas that are open to oil and gas leasing, as identified in the existing Resource Management Plans.</p> <p>Each of the parcels was reviewed by an Interdisciplinary team for resource conflicts and potential impacts and recommendations for deletion or deferral have been identified in the EA.</p> <p>Where parcels have been determined to be eligible for leasing, stipulations to mitigate for resource impacts have been identified as appropriate.</p> <p>Additionally, site specific NEPA analysis will occur at the development phase that will include</p>

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		additional opportunities for public involvement.
13	The EA is incomplete with respect water quality plans for Bitter Creek, Salt Wells and Muddy Creek. The development and status of these plans are relevant to whether development would impact implementation of these plans.	Site specific NEPA analysis will occur at the development stage and will include specific water quality analysis based on the development plan of the lease.
14	BLM proposes to continue deferrals of nominated lands due to the pending RMP amendments for sage grouse management. BLM should instead adopt a stipulation which permits changes based on future RMP amendments. Such a stipulation should be sufficiently flexible to incorporate any conservation agreement work being done.	The BLM is deferring the leasing of these parcels to ensure a full range of alternatives are available in the ongoing RMP Amendments and the Green River RMP Revision.
15	<p>The Greater Little Mountain area has never been designated in a land use plan, nor does it meet Master Leasing Plan (MLP) criteria.</p> <p>Additionally, the amount of land in question is unclear and the area does not meet the four criteria set forth in IM 2010-117. Because all four criteria were not met it is improperly classified for MLP and the proposed oil and gas lease sale parcels should not be deferred.</p> <p>The MLP was implemented without undertaking mandatory rulemaking or other procedures. IM 2010-117 sets out mandates that superseded the resource allocations and management decisions made in respective Wyoming RMPs.</p> <p>There was no coordination or consultation with the State of Wyoming or the local governments; however environmental groups were allowed to nominate MLPs.</p> <p>FLPMAs procedural public comment and coordination with State and local government requirements have been violated. DOI has failed to provide for public involvement or coordinate with State and local governments in the development and issuance of the MLP program changes in violation of FLPMA's direct commands.</p> <p>By implementing the MLP program, the BLM has disregarded the local Sweetwater County land plan. This directly conflicts with the goals and objectives of the Sweetwater County land plan and violates FLPMA's direct command for consistency.</p>	<p>Parcels WY-1211-051 through 058, 060, and 061 are located in the Greater Little Mountain area identified in the implementation plan for MLP evaluation.</p> <p>The MLP is being evaluated in the ongoing RMP Revision for Rock Springs.</p> <p>BLM actions are consistent with the December 2009 letter from the BLM Wyoming State Director to the Governor of Wyoming.</p>

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16	<p>The proposed action defers a number of parcels on the basis that they affect lands with wilderness character (LWCs). The terms of the Utah-BLM settlement violate congressional funding freeze on LWC identification and management. The wild lands policy and IM 2011-154 contradict commitments made to the public and congress honoring the Utah-BLM settlement.</p> <p>Unlike the definition of multiple use for National Forests, FLPMA does not include wilderness as one of the statutory multiple uses. Thus, BLM is not at liberty to add wilderness to other provisions in FLPMA when congress so clearly chose not to.</p> <p>The Interior Secretary’s authority to identify public lands as wilderness study areas under Section 603 has expired.</p> <p>BLM adopted the Wild Lands Policy through three manuals, citing sections 201, 202 and 302 of FLPMA. Those provisions do not support BLM’s claimed authority to designate Wild Lands or LWCs or to manage them as if they were designated WSAs for nonimpairment of the wilderness character.</p> <p>BLM did not follow section 202 when it did not coordinate the inventory and LWC determinations with the local governments.</p>	<p>IM-2011-154 is the current BLM policy and is compliant with Sections 201 and 202 of the Federal Land Policy Management Act. IM-2011-154 supersedes all previous guidance on LWCs, including Secretarial Order #3310. This EA has been conducted in compliance with IM-2011-154.</p>
17	<p>We support Alternative 2 of the EA with additional recommendations that streams with native and wild trout fisheries contain a 0.25 mile NSO stipulation for those waters. In particular a 0.25 mile buffer for parcels adjacent to the Sweetwater River and Seminoe Reservoir. Our organization and science concur that the larger the buffer, the greater the protection measure. If 0.25 mile buffer river and stream stipulations are not added at the lease level, they become harder and potentially impossible at the APD stage.</p> <p>BLM and Forest Service are implementing increased buffer setbacks in all surrounding states. Little Snake BLM Field Office (FO) in Colorado which borders the Rawlins FO in Wyoming is the most recent example. IM 2010-117 calls removing those edge borders on neighboring agency FOs, whether it be within state or out of state.</p>	<p>BLM believes the protection 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>) provides the requisite protection. Lease Notice No. 1 does address rivers and streams through the inclusion of the term “surface water”. Surface water is inclusive of rivers and streams, as well as ponds, reservoirs, and lakes.</p>

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		None of the parcels border the Little Snake BLM Field Office and do not require an edge matching review at this time.
18	Significant water quality issues arise from coal bed methane (CBM) exploration and drilling. We have concerns about leasing parcels that are within the water banks of the Seminole Reservoir. Discharges of CBM must be considered based on potential impacts to ephemeral and intermittent drainages located in the reservoir area and the reservoir itself.	Water quality related to CBM exploration and drilling within the Seminole Reservoir area was analyzed in the 2006 Rawlins RMP/Final EIS. All parcels are located within areas identified as open for oil and gas development in the current Rawlins RMP.
19	<p>We are extremely concerned at the scale at which parcels located within sage grouse core areas are being proposed for leasing. 49 of the 87 parcels offered in the November 2012 lease sale fall within core areas. Given the importance of core population areas, parcels located within core areas should not be leased.</p> <p>We understand that the Field Offices utilize the sage grouse screen per IM WY-2010-013, however cumulative impacts from large numbers of parcels in core areas could have unacceptable consequences for recovery efforts.</p> <p>If leasing within sage grouse core areas continues, the USFWS will undoubtedly view there to be continued inadequacy of regulatory mechanisms...thus eliminating management options for the largest landowner of sage grouse habitat. The expanse of leasing proposed within sage grouse core areas for the November 2012 Wyoming sale could jeopardize current proactive recovery efforts and doom future options beyond Wyoming.</p> <p>Decisions, such as leasing large acreage of important sage grouse habitat prior to completion of regional conservation efforts, could push the species closer to full listing and should therefore be avoided.</p> <p>Proceeding with proposed parcels sales in core areas is likely to undermine RMP sage grouse amendment processes; violates existing BLM sage grouse policies and Instruction Memoranda; NEPAs hard look requirements; FLPMA provisions; and the public trust in the agency's stewardship</p>	<p>All parcels have been analyzed consistent with WY-IM-2012-019 'Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate' to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed.</p> <p>The Nine-plan Greater Sage-grouse RMP Amendments is analyzing a variety of alternatives and protections for sage grouse habitat, including oil and gas leasing.</p>

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	<p>responsibilities of the public lands and wildlife resources.</p> <p>As new formations and plays emerge, it must be assumed that all leases will have subsequent development. BLM has never analyzed how developing existing leases in the bird's habitat could impact recovery and survival efforts.</p>	
20	<p>We refer BLM to the analysis, argument, and exhibits in the recently filed request for stay of disputed core area parcels in the May 2012 BLM WSO lease sale, and incorporate such documents by reference in this comment letter.</p> <p>In this proposed lease sale, the BLM failed to consider reasonable alternatives to conserve sage grouse and their habitat, specifically providing the option to defer all parcels within sage grouse core areas.</p>	<p>The May 2012 lease sale is a separate action from this document and will not be addressed here.</p> <p>All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 'Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate' to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed.</p> <p>The Nine-plan Greater Sage-grouse RMP Amendments EIS is analyzing a variety of alternatives and protections for sage grouse habitat, including oil and gas leasing.</p>
21	<p>We agree with BLM's proposal to defer all or portions of Parcels which fall within Core Areas. It is a wise decision to defer the long-term commitment of mineral leases at least until the sage grouse RMP amendment process is completed, in order to avoid foreclosing conservation options that may be selected for implementation under the RMP amendments.</p>	<p>Thank you for your comment.</p>
22	<p>The BLM apparently proposes to auction Parcels 4, 5, 6, 7, 8, 10, 11, 16, 36, 38-40, 43, 44, 46, 47, 56, 62, 79, 82, and 84-87, which are entirely or partially within Core Areas. These parcels should be deferred from sale even if they are not part of 11 square miles of unleased mineral estate held by BLM.</p> <p>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, pursuant to the 2010 Interior Department leasing IM. BLM should do its best to keep largely unleased areas of public land in Core Areas</p>	<p>All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 'Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate' to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed.</p>

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	unleased, regardless of mineral ownership patterns.	
23	<p>Parcels 9, 12-14, 18-31, 33-35, 68, 70, 71, 75, 80, 81 and 83 are outside designated sage grouse Core Areas but contain or are in close proximity to one or more occupied sage grouse leks. The current standard sage grouse stipulations that apply outside Core Areas are biologically inadequate. 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 either the following combination:</p> <ul style="list-style-type: none"> • 2-mile No Surface Occupancy buffers surrounding leks; • 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; • No overhead powerlines within 5 miles of leks, or new Timing Limitation Stipulations that extend 3 miles from the lek and restrict production related activities in addition to drilling and construction, as has been proposed by BLM under the Lander RMP DEIS (Record 4095)4, paired with a prohibition n overhead power lines within 5 miles of leks. If these stipulations are implemented together with even stronger measures for Core and Connectivity Areas, the BLM could make a credible case that impacts from leasing would not result in significant impacts. <p>Wyoming sage-grouse populations are some of the largest left in the nation and were relatively stable until the last decade, when sage-grouse populations experienced major declines range-wide. The Wyoming Game and Fish Department reported that since 1952, there has been a 20% decline in the overall Wyoming sage-grouse population, with some fragmented populations declining more than 80% . . . Since these figures were published, grouse populations have continued to decline. These declines are attributable at least in part 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 sage-grouse viability in the region. The area within 2 to 3 miles of a sage-grouse lek is crucial to both the breeding activities and nesting success of local sage grouse populations. In a study near Pinedale, sage-grouse from disturbed leks where gas development occurred within 3 km of</p>	<p>All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 ‘Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate’ and are in compliance with the existing land use plans as required by 43 CFR 1610.5. Additionally, site specific NEPA analysis will occur at the development stage that will analyze resource conflicts and identify mitigation for specific impacts. In accordance with IM 2010-110, Change 1 and Lease Notice No. 3 any new standards/ mitigation/ stipulations coming forth from that process can be applied to post-lease actions. (i.e., APDs, Sundry Notices, Rights-of-Way, etc.</p>

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	<p>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. 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.</p>	
24	<p>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. BLM should also 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.</p>	<p>IM 2004-110 Change 1 states, “A decision temporarily to defer could include lands that are designated in the <u>preferred alternative</u> of draft or final RMP revisions or amendments . . .” (emphasis added). The sage grouse amendments have not designated a preferred alternative to date; consequently the request deferral is outside the policy of the IM.</p> <p>All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 ‘Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate’ to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed.</p>
25	<p>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, pursuant to the 2010 Interior Department leasing IM. BLM should do its best to keep largely unleased areas of public land in Core Areas unleased, regardless of mineral ownership patterns.</p>	<p>All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 ‘Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate’ to determine whether the</p>

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26	<p>Other important findings on the negative impacts of oil and gas operations on sage-grouse and their implications for the species are contained in three studies recently accepted for publication. Sage-grouse mitigation measures have been demonstrated to be ineffective at maintaining this species at pre-development levels in the face of oil and gas development by Holloran (2005) and Naugle et al. (2006). Naugle found an 85% decline of sage-grouse populations in the Powder River Basin of northeastern Wyoming since the onset of coalbed methane development there. BLM has repeatedly failed to provide any analysis, through field experiments or literature reviews, examining the effectiveness of the standard quarter-mile buffers where disturbance 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 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>Outside Core Areas, current sage grouse lease stipulations provide an NSO stipulation of ¼ mile around active sage grouse leks. This is a ridiculously inadequate amount of protection for the lekking grouse during the breeding period, never mind for hens nesting on lands surrounding the lek. Studies have shown that the majority of hens nest within 3 miles of a lek, and that a 5.3-mile buffer would encompass almost all nesting birds in some cases. For Core Areas, the most scientifically supportable metric for NSO buffers would be 2 miles from the lek to protect breeding birds (after Holloran 2005, finding impacts from post-drilling production extend 1.9 miles from the wellsite) and 5.3 miles to protect nesting birds, with the understanding that the impacts of</p>	<p>BLM and US Forest Service are currently engaged preparing an amendment to the nine land use plans to evaluate the status of sage grouse and to incorporate results and recommendations from recent studies, such as those referenced in the BCA comment into BLMs land use planning process. In accordance with IM 2010-110, Change 1 and Lease Notice No. 3 any new standards /mitigation/ stipulations coming forth from that process can be applied to post-lease actions.(i.e., APDs, Sundry Notices, Rights-of-Way, etc.</p> <p>All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 ‘Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate’ to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed.</p>

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	<p>drilling and production activity would extend into the NSO buffer area from wells arrayed along its edge.</p> <p>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>	
27	<p>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 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 Holloran, Braun, and others, must be undertaken now.</p>	<p>It is beyond the scope of this EA to address the validity and/or perceived inadequacies of IM 2010-012.</p> <p>All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 ‘Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate’ to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed.</p>

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28	<p>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.</p>	<p>All stipulations that have been added to selected parcels are in compliance with existing land use plans.</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 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.</p>
29	<p>BLM has the scientific information needed to recognize that any use of these parcels will result in further population declines, propelling the sage-grouse ahead of other “priorities” on the ESA “candidate list.” 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.</p>	<p>The May 2012 lease sale is a separate action from this document and will not be addressed here.</p> <p>All parcels for the November 2012 proposed sale have been analyzed consistent with WY-IM-2012-019 ‘Greater Sage-Grouse Habitat Management Policy on Wyoming BLM Administered Public Lands Including the Federal Mineral Estate’ to determine whether the parcel should be offered for sale or deferred until the ongoing RMP Amendments are completed.</p> <p>The Nine-plan Greater Sage-grouse RMP Amendments EIS is analyzing a variety of alternatives and protections for sage grouse habitat,</p>

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30	<p>We recommend 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 (we see no evidence of this in the November 2012 Leasing EA), 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</p>	<p>including oil and gas leasing. Refer to the Agency response above.</p>
31	<p>Parcels 4, 30, 37-39, 41-43, 45, 46, 51, 56-58, 66, and 79-82 appear to involve antelope crucial winter range. Of these, parcels 38, 51, 56-58, 66, and 82 are slated for deferral, with which we agree. In addition, parcels 66, 78 and 79 are mule deer crucial winter range, and parcel 66 is slated for deferral. In addition parcels 47 and 49 are in parturition ranges, but are proposed for deferral from the lease auction, which ameliorates any concerns we might have about these parcels at this time. It would be prudent for BLM not to commit these lands for a ten year period during which the leaseholders would possess some right to explore and produce oil and gas on their leaseholds. A comprehensive analysis of the level of crucial winter range conservation necessary to maintain herd populations at or above targets needs to be undertaken; we urge BLM to defer such parcels until this analysis is complete, in order to avoid foreclosing on options for conservation.</p>	<p>These parcels are located in areas identified as open to oil and gas leasing in the existing land use plans. Stipulations have been added to these parcels to mitigate for resource impacts, as appropriate (See Table 12 of the EA).</p>
32	<p>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</p>	<p>Consistent with the MOU, the Wyoming Game and Fish Department (WGFD) participates in BLM RMP and NEPA processes as a cooperating agency. Through their</p>

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	<p>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 upcoming lease sale.</p>	<p>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 recommended for offer at the November 2012 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.</p>
33	<p>While we strongly recommend 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 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>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.</p>
34	<p>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>The Wyoming Game and Fish Commission (WG&F) has a formal policy relative to disturbance of crucial habitats, including crucial winter ranges. Crucial habitat is habitat</p>	<p>Table 12 and Appendix B provide all of the stipulations that are proposed to be applied to each lease parcel recommended for offered at the November 2012 lease sale, including timing limitation stipulations for crucial big game winter range. These stipulations provide the foundation for more extensive mitigation that could by</p>

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	<p>“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&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&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>Clearly, the timing limitation stipulation applicable to the Crucial Winter Range Parcels is not in compliance with the State of Wyoming’s policies and plans regarding the protection of wildlife. The timing stipulation, standing alone, does not ensure protection of habitat function. There is absolutely no guarantee, or even the remote likelihood that the location, essential features, and species supported on the crucial winter range will remain “unchanged.”</p>	<p>applied should a post lease exploration or development proposal occur. Consistent with IM 2004-110, Change 1 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>
35	<p>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>These parcels are located in areas identified as open to oil and gas leasing in the existing land use plans. Stipulations have been added to these parcels to mitigate for resource impacts, as appropriate (See Table 12 of the EA).</p>
36	<p>The findings in the scientific and popular literature have been confirmed in recent BLM NEPA documents. The Green River EIS/RMP/ROD is replete with documentation of the importance of crucial winter ranges, and their ongoing loss, despite the stipulation required by BLM. Green River EIS/RMP at 347-349. (“Probably the single most important factor affecting antelope populations are weather,” at 438-441.) (“ . . . oil and gas development in Nitchie Draw causing</p>	<p>Thank you for your comment.</p>

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	<p>forage loss and habitat displacement;” “Displaced wildlife move to less desirable habitat where animals may be more adversely stressed . . .;” “Long-term maintenance and operations activities in crucial wildlife habitats would continue to cause displacement of wildlife from crucial habitats, including . . . crucial big game winter habitats;” “Surface disturbing activities would continue to cause long-term loss of wildlife habitat,” etc.) The Jack Morrow Hills EIS also documents the importance of crucial winter ranges, particularly to elk, and the sensitivity of wildlife on winter ranges not only to drilling during the winter period, but also due to ongoing displacement and disturbance of wildlife from oil and gas development. Jack Morrow Hills EIS at 4-61 to 4-64, 4-80 to 4-88. The Rawlins Draft RMP further documents the negative effects of oil and gas drilling on big game when on winter ranges. Rawlins RMP Draft EIS at 3-131 to 3-136.</p>	
37	<p>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 “loss of habitat function” (<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>
38	<p>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</p>	<p>These parcels are located in areas identified as open to oil and gas leasing in the existing land use plans. Stipulations have been added to these parcels to mitigate for</p>

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	<p>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&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>resource impacts, as appropriate (See Table 12 of the EA).</p> <p>In accordance with IM 2010-110, Change 1 and Lease Notice No. 3 any new standards/mitigation/stipulations coming forth from that process can be applied to post-lease actions. (i.e., APDs, Sundry Notices, Rights-of-Way, etc.).</p>
39	<p>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] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.” 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: Interior is to prevent, not only unnecessary degradation, but also degradation that, while necessary . . . is undue or excessive.” <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>	<p>Refer to the preceding response.</p>

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40	<p>Due to the lack of a “hard look” at impacts to Wyoming pocket gopher on a parcel-by parcel basis, it is difficult to comment on this Lease EA. Based on the geographic distribution of the parcels and our knowledge of known Wyoming pocket gopher occurrences, Parcels 5 through 66 are particularly likely to contain important Wyoming pocket gopher habitat, and Parcels 8-50 potentially contain Wyoming pocket gopher habitat, all of which is of critical conservation concern. As BLM is no doubt aware, BCA authored a petition to list the Wyoming pocket gopher as Threatened or Endangered under the Endangered Species Act.16 The U.S. Fish and Wildlife Service’s recently released finding that the Wyoming pocket gopher is not warranted for Endangered Species Act protections only heightens the fact that this incredibly rare species faces a grim long-term prognosis due to direct conflicts in its limited range with oil and gas development. As a BLM 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 proposed to date cannot guarantee adequate protection for the 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. More needs to be done.</p>	<p>Table 3-2 identifies which parcels on the November 2012 lease parcel list potentially contain Wyoming pocket gophers and or their habitat. Absent a definitive development proposal BLM cannot determine whether or not, or to what extent the Wyoming pocket gopher might be affected.</p> <p>The EA at Section 4.2.2.2 addresses that surface disturbance would potentially 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.</p>
41	<p>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</p>	<p>Table 3-2 identifies which parcels on the November 2012 lease parcel list potentially contain Wyoming pocket gophers and or their habitat. Absent a definitive development proposal BLM cannot determine whether or not, or to what extent the Wyoming pocket gopher might be affected.</p> <p>The EA at Section 4.2.2.2 addresses that surface disturbance would potentially 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</p>

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	<p>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>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 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.</p>	<p>their habitat.</p> <p>The November 2012 lease parcel EA meets the requirements of IM 2010-117.</p>
42	<p>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</p>	<p>Your comment refers to the February 2010 lease sale. We assume you meant to refer to the November 2012 lease sale instead.</p> <p>The EA has been conducted in accordance with BLM’s Special Status Species Policy outlined in BLM Manual 6840 and IM WY-2010-027; (Update of the Bureau of Land Management, Wyoming, Sensitive Species List - 2010),</p>

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	<p>adhering to its own management standards.</p> <p>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 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>which is addressed in Section 3.2.2.3 of the EA.</p>
43	<p>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</p>	<p>Table 3-2 identifies which parcels on the November 2012 lease parcel list potentially contain Wyoming pocket gophers and or their habitat. 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 addresses that surface disturbance would potentially 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. The November 2012 lease parcel EA meets the requirements of IM 2010-117.</p> <p>The EA has been conducted in</p>

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	<p>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>accordance with BLM's Special Status Species Policy outlined in BLM Manual 6840 and IM WY-2010-027; (Update of the Bureau of Land Management, Wyoming, Sensitive Species List - 2010), which is addressed in Section 3.2.2.3 of the EA.</p>
44	<p>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.</p>	<p>Refer to the preceding response.</p>
45	<p>A number of the analyzed parcels are located within important white-tailed prairie dog habitat. GIS data for this analysis was obtained from various sources; details on the data sources will be provided upon request. Oil and gas development authorized by the leasing of these parcels is likely to have significant direct, indirect, and cumulative impacts on white-tailed prairie dog and other species that rely on white-tailed prairie dogs, including black-footed ferrets.</p>	<p>The EA has been conducted in accordance with BLM's Special Status Species Policy outlined in BLM Manual 6840 and IM WY-2010-027; (Update of the Bureau of Land Management, Wyoming, Sensitive Species List - 2010), which is addressed in Section 3.2.2.3 of the EA.</p> <p>These parcels are located in areas identified as open to oil and gas leasing in the existing land use plans. Stipulations have been added to these parcels to mitigate for</p>

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		resource impacts, as appropriate (See Table 12 of the EA).
46	<p>Wyoming BLM prepared a programmatic Biological Evaluation of the impacts of Wyoming BLM’s oil and gas program on white-tailed prairie dog. The BE which can be found at http://www.blm.gov/pgdata/etc/medialib/blm/wy/wildlife/wt20prdog.Par.20150.File.dat/WTPDbio-eval.pdf, concludes that the BLM’s oil and gas program in Wyoming will contribute to the need to list the white-tailed prairie dog under the Endangered Species Act. The BE makes the following determination on p. 3-14:</p> <p>“Implementation of energy and mineral resource management actions may impact and is likely to contribute to the need for Federal listing of the WTPD for the Great Divide (Rawlins FO), Green River (Rock Springs FO), Kemmerer, and Pinedale RMPs. This determination is based on the limited ability for the BLM to provide minimization of direct effects of oil and gas development to the WTPD through implementation of the conservation strategies (section 4.0) and the potential to damage or destroy suitable occupied and unoccupied WTPD habitat on split estates. In addition, each of these FOs have WTPD complexes located in areas of potential mineral development.” The BE recommends the following Best Management Practices for oil and gas development to remedy this situation on p. 4-2: “No further oil and gas exploration and development should be allowed into occupied prairie dog colonies, or the BLM should apply a Condition of Approval (COA) on all Applications for Permit to Drill (APDs) within areas containing known populations of WTPDs that protects rearing of young from April 1 through July 15. When possible, a No Surface Occupancy stipulation should be applied to all occupied and recovering prairie dog habitat for well pads or ancillary facilities (e.g. compressor stations, processing plants, etc.) within 1/8th mile of WTPD habitat. When possible, no seismic activity should be allowed in occupied or recovering prairie dog habitat.” Though BLM has prepared new RMPs since this BE was written, none of the new RMPs incorporated the above BMPs recommended in the BE. They should be incorporated now prior to issuing any leases in these areas.</p>	<p>The EA has been conducted in accordance with BLM’s Special Status Species Policy outlined in BLM Manual 6840 and IM WY-2010-027; (Update of the Bureau of Land Management, Wyoming, Sensitive Species List - 2010), which is addressed in Section 3.2.2.3 of the EA.</p> <p>These parcels are located in areas identified as open to oil and gas leasing in the existing land use plans. Stipulations have been added to these parcels to mitigate for resource impacts, as appropriate (See Table 12 of the EA).</p> <p>All parcels on the November 2012 list containing white-tailed prairie dog habitat are constrained by the controlled surface use stipulation for sensitive species which states, <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</i></p>

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		<p><i>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>
47	<p>Parcels 30, 31, 33, 34, and 35 fall within or partially within the Kinney Rim South and Kinney Rim North citizens' proposed wilderness areas. Parcels 18-22, 24 and 26-31 fall within the Adobe Town citizens' proposed wilderness; only the portion of Parcel 46 that is inside the WSA is marked for deletion. All of these parcels appear to fall within the Adobe Town Dispersed Recreation Use Area as outlined in the Rawlins Resource Management Plan. We would like to have the opportunity to accompany BLM on a site visit of all parcels proposed to be auctioned in citizens' proposed wilderness should there be an inclination to move forward with leasing these parcels at some point in the future.</p> <p>These citizens' proposed wilderness units, involving both the deferred parcels and the parcels 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. There has been considerable controversy regarding BLM's disposition of these lands as regards to their wilderness characteristics, and the BLM has repeatedly issued conflicting accounts of its findings in this regard. In addition, BLM has the option to manage these plans to protect the wilderness characteristics that are documented to occur here. We recommend all these parcels not already slated for deletion be deferred pending new wilderness inventories to be conducted pursuant to BLM IM 2011-154 or deleted.</p> <p>These parcels will hereinafter be referred to as the Special Values Parcels. Because all of these parcels lie in or very near</p>	<p>Lands with wilderness characteristics are adequately addressed in Sections 3.2.2.4 and 4.2.3 of the EA. The EA is in compliance with IM -2011-154 'Requirement to Conduct and Maintain Inventory Information for Wilderness Characteristics and to Consider Lands with Wilderness Characteristics in Land Use Plans'.</p> <p>Parcel 46 is not located within a WSA and has not been marked for deletion.</p> <p>Parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 are recommended for deferral from leasing per WO IM-2010-117 due to parcels being within the Adobe Town Dispersed Recreational Use Area (DRUA). The DRUA is being evaluated as part of the ongoing Visual Resource Management planning amendment to the 2008 Rawlins Resource Management Plan. The EA and appropriate appendices have been updated.</p>

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	<p>Citizens Proposed Wilderness areas or BLM Wilderness Study Areas they clearly have special values, such a 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.</p> <p>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 (9th 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. Envntl. 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>	
48	The Green River and Rawlins RMPs were adopted	The EA is in compliance with IM -

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	<p>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 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.</p>	<p>2011-154 ‘Requirement to Conduct and Maintain Inventory Information for Wilderness Characteristics and to Consider Lands with Wilderness Characteristics in Land Use Plans’.</p>
49	<p>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.</p>	<p>The EA is in compliance with IM - 2011-154 ‘Requirement to Conduct and Maintain Inventory Information for Wilderness Characteristics and to Consider Lands with Wilderness Characteristics in Land Use Plans’.</p>
50	<p>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.</p>	<p>IM-2011-154 is the current BLM policy and is compliant with Sections 201 and 202 of the Federal Land Policy Management Act. IM-2011-154 supersedes all previous guidance on LWCs, including Secretarial Order #3310. This EA has been conducted in compliance with IM-2011-154.</p>
51	<p>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</p>	<p>The parcels proposed for inclusion on the on the November 2012 lease sale were evaluated through the EA. There is no DNA for these parcels.</p>

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	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.	
52	<p>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. <i>BMPs</i> must also be <i>evaluated</i> 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, 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>See Sections 4.2.1.4 and 4.2.2.3 for discussions concerning BMPs.</p> <p>All stipulations that have been added to selected parcels are in compliance with existing land use plans.</p> <p>Absent a definitive development proposal it is not possible for a more specific impact analysis and as stated in Section 1.3 of the 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. .</p> <p>In accordance with IM 2010-110, Change 1 and Lease Notice No. 3 any new standards/mitigation/stipulations coming forth from that process can be applied to post-lease actions. (i.e., APDs, Sundry Notices, Rights-of-Way, etc.).</p>

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	<p>There is no doubt that IM 2004-110 Change 1 is intended to apply to leasing. The IM specifically applies to fluid minerals leasing 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, after IM 2004-194, to fill in gaps in the leasing program guidance provided by IM 2004-110. Thus, while BLM may further consider and refine BMPs at the APD stage, it nevertheless must 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>	
53	<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>	<p>IM-2011-154 is the current BLM policy and is compliant with Sections 201 and 202 of the Federal Land Policy Management Act. IM-2011-154 supersedes all previous guidance on LWCs, including Secretarial Order #3310. This EA has been conducted in compliance with IM-2011-154.</p>
54	<p>Parcels 3, 10-13, 20, 22-24, 54-56, and 58, appear to be astride or extremely close to the Overland and/or Cherokee historic</p>	<p>Table 3-2 identifies the parcels that contain National Historic Trails</p>

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	<p>trails, 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 37-39, 41-49, include or are very close to Point of Rocks-South Pass Stage Road, which is NHRP eligible. Parcels 49, 50, 65-69, 73-75, 77, 78 and 83 are at least partially within the South Pass Historic Landscape, near, and/or astride one of the National Historic Trails. Parcels slated for deferral address our concerns regarding impacts to historic trails as long as BLM follows through with these deferrals. For these parcels, BLM should attach a new, stronger lease stipulation to protect the settings of these historic trails, along the lines of the measure that the BLM has proposed for implementation in the Lander RMP: three-mile No Surface Occupancy with an additional two mile CSU stipulation that prohibits surface occupancy if roads or developments are visible from the trail.</p>	<p>and/or viewshed setting for the trails and appropriate stipulations have been applied in compliance with existing RMPs (See Table 12).</p>
55	<p>The Rawlins Resource Management Plan, approved in January 2009, is legally inadequate inasmuch as the EIS supporting the final ROD failed to consider an adequate range of alternatives. Among the alternatives which were reasonable and yet were not encompassed by the range of alternatives analyzed by BLM including but not limited to the Western Heritage Alternative. This alternative prescribed no future leasing in citizens’ proposed wilderness as well as designation of a Powder Rim ACEC, neither of which was considered in detail under any alternative in the EIS. This alternative had broad public support (both within Wyoming and nationally), and was deemed worthy of detailed consideration by Governor Freudenthal in official public statements. The BLM’s rationale for eliminating this alternative from detailed consideration was fatally flawed (i.e., the concept that not allowing surface occupancy for oil and gas development renders the alternative unreasonable is not supported by any fact or law, and is therefore arbitrary and capricious). Lease parcels to which this concern applies includes parcels in the Adobe Town citizens’ proposed wilderness (18-22, 24, 26-31) and in the Kinney Rim South citizens’ proposed wilderness (Parcels 30, 31, 33, 34 and 35). BLM had full authority to withdraw these lands from future reason for any reason it chose (or indeed, no reason at all) including the option of withdrawing the Adobe Town DRUA from future leasing, but failed to consider any of these options in the EIS, therefore leading to the legally flawed underpinning for this lease sale.</p>	<p>The Rawlins RMP went through a 30-day protest period was provided on the land use plan decisions contained in the Proposed RMP/Final EIS in accordance with 43 CFR Part 1610.5-2. BLM received 79 protest letters that were subsequently resolved by the BLM Director, whose decision constitutes final agency action for the USDI and Record of Decision was approved on December 24, 2008. In resolution of one protest the State Director issued a remand on the visual resource management class designation and decisions. The ROD at 1.1 states, “The decision is made to approve the attached RMP (hereafter referred to as the Approved RMP) for the RFO. <u>The Approved RMP was prepared under the authority of the Federal Land Policy and Management Act (FLPMA) (43 United States Code [U.S.C.] §1701, et seq.) and other applicable laws (43 Code of Federal Regulations [CFR] Part 1600) and includes broad</u></p>

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		<p>land use plan decisions that provide overall direction for management of resources and resource uses within the RMPPA (emphasis added).” A determination of the legal sufficiency is beyond the scope and authority of this EA.</p> <p>Parcels WY-1211-018, -019, -020, -021, -022, -023, -024, -026, -027, -028, -029, -030, -031, -033, -034, and -035 are recommended for deferral from leasing per WO IM-2010-117 due to parcels being within the Adobe Town Dispersed Recreational Use Area (DRUA). The DRUA is being evaluated as part of the ongoing Visual Resource Management planning amendment to the 2008 Rawlins Resource Management Plan. The EA and appropriate appendices have been updated.</p>