

February 2013 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	Biodiversity Conservation Alliance	BCA1	Parcels 24, 25, 38-46, 48, 52-56, 66-73, 91, 92, 94-101, 105-113, 145, 153, 156-159, 160, 162, 165-182, 184-195, 197, 202, 203, 205-208, 210-213, 224-233, 236, 239, 245-258, 262-266, 271-275, 277-282, 290-293, 295-306, 313, 317-319, 326, 327, 329, 334-336, 341-347, 349-358, 360, 361, 363, 364, 371-376, 380-383, 395-414, 416, 418-431, 437-454, 463, 465-472, 474, 476-478, 480-482, 485-487, and 500 are completely or partially within sage grouse Core Areas according to BLM sage grouse leasing screens. Under Instruction Memorandum No. WY-2012-19, lands falling within sage grouse Core Areas that are primarily under BLM ownership and are not extensively leased are recommended for deferral from oil and gas leasing. Given the pendency of the Sage Grouse Plan Amendment EIS, and the perilous status of the sage grouse with regard to Endangered Species listing, these lands should all be deferred from leasing pending an outcome of the RMP amendments. No leasing in Core Areas is one reasonable alternative which BLM has been asked to consider in its Sage Grouse Plan Amendments process, and also in its RMP revisions, and leasing Core Area lands regardless of what screening mechanisms they have been subjected to will violate CEQ guidance. BLM states in the Wind River/Bighorn EA that this alternative was “considered but eliminated;” because BLM admits this measure falls within the range of alternatives, it should be	The Sage-grouse leasing screen was followed from IM 2012-019. The parcels in High Plains District listed did not meet the screening criteria and therefore were offered for sale. Please see page 15.
2	Biodiversity Conservation Alliance	BCA2	Parcels 110, 111, and 166 are within Core Area lands yet are proposed for leasing because they are part of an oil and gas unit. The proper management decision for these parcels is to lease them under No Surface Occupancy stipulations or not at all, in order to avoid additional impacts to sage grouse inhabiting the Core Area lands. Unitized leases issued under NSO stipulations can have their minerals “drained” by wells on neighboring leases, minimizing additional impacts to sage grouse habitat. Having a loophole allowing for leasing in unitized areas without NSO stipulations fails to take advantage of one of the chief benefits of unitization, i.e., drainage without surface impacts. It also creates a loophole not present in the National Technical Team recommendations which may be the framework for Sage Grouse RMP Amendments and RMP revisions, and therefore not consistent with these recommendations. By leasing Core Area lands under the 2012 IM under terms more lenient than the NTT recommendations, BLM creates a situation where adverse environmental impacts will occur and the choice of alternatives in the Sage Grouse Plan Amendments and RMP revisions will be limited, because it will be too late to impose NSO stipulations on the leases themselves or not offer the leases in the first place should that be the direction adopted in the plan amendments/revisions. The proper course of action is therefore to defer these	The Sage-grouse leasing screen was followed from IM 2012-019. The parcels in High Plains District listed did not meet the screening criteria and therefore were offered for sale. Please see page 15.

3	Biodiversity Conservation Alliance	BCA3	<p>The BLM apparently proposes to auction Parcels 24, 25, 38, 39, 44,-46, 53, 67-73, 95-99, 111, 180, 225, 226, 233, 236, 239, 264-266, 295, 359, 418-420, 437, 447, 448, 450, 453, 454, 463, 474, 485-487, and 500, which are entirely or partially within Core Areas, yet are not part of 11 square miles of unleased land. This decision derives from a Wyoming State Instruction Memorandum which was not part of any RMP, was not subject to NEPA review, and possibly as a result yields outcomes that will likely be deleterious to sage grouse. One such outcome is that BLM adopts recommendations in the National Technical Team Report through the Sage Grouse RMP Amedments or through RMP amendments, yet the existence of the leases in question create valid existing rights that cannot be undone. Once BLM leases such lands, they are very difficult to “unlease.” The result could be development in accordance with lease terms that harms the welfare of sage grouse and/or degrades their habitats, undermining population recovery or maintenance, while eliminating the option to keep these lands free of lease encumbrances under the Sage Grouse Plan Amendments and/or pending RMP revisions. These parcels should be deferred from sale even if they are not part of 11 square miles of unleased land.</p>	<p>The Sage-grouse leasing screen was followed from IM 2012-019. The parcels in High Plains District listed did not meet the screening criteria and therefore were offered for sale. Please see page 15.</p>
4	Biodiversity Conservation Alliance	BCA4	<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 2012 Wyoming leasing IM.</p>	<p>The Sage-grouse leasing screen was followed from IM 2012-019. The parcels in High Plains District listed did not meet the screening criteria and therefore were offered for sale. Please see page 15.</p>
5	Biodiversity Conservation Alliance	BCA5	<p>In addition, Parcels 2, 3, 4, 5, 6, 12, 17, 18, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 47, 51, 64, 65, 79, 82, 83, 84, 87, 88, 101, 102, 103, 104, 146, 164, 183, 188, 196, 198, 199, 200, 201, 209, 214, 221, 222, 223, 234, 237, 238, 240, 241, 242, 243, 244, 259, 260, 261, 283, 284, 285, 286, 287, 288, 289, 307, 310, 311, 314, 315, 316, 320, 321, 322, 323, 324, 325, 328, 330, 331, 332, 333, 339, 340, 362, 377, 378, 379, 388, 391, 392, 415, 417, 432, 433, 434, 435, 436, 455, 456, 457, 458, 473, 475, 476, 479, 483, 484, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, and 499 are outside designated sage grouse Core Areas but contain or are in close proximity (within 4 miles) to one or more occupied sage grouse leks. The lands within 4 miles of active leks are typically used for nesting, a sensitive life history period when sage grouse are sensitive to disturbance from oil and gas drilling and production activities. The current standard sage grouse stipulations that apply outside Core Areas are biologically inadequate, and their effectiveness has not been established by BLM. Indeed, scientific studies demonstrate that these mitigation measures fail to maintain sage grouse populations in the face of full-field development. BLM should not issue these sage grouse parcels unless a rigorous set of stipulations, far stronger than those provided in the EA (such as NSO stipulations), 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, <p>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 on 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</p>	<p>The Sage-grouse leasing screen was followed from IM 2012-019. The parcels in High Plains District listed did not meet the screening criteria and therefore were offered for sale. Please see page 15.</p>

6	Biodiversity Conservation Alliance	BCA6	<p>Parcels 96, 100, 101, 103, 105, 106, 107, 108, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 37, 138, 139, 140, 141, 142, 143, 147, 149, 155, 156, 157, 158, 159, 160, 161, 162, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 184, 185, 186, 187, 188, 189, 191, 192, 193, 194, 196, 201, 203, 210, 211, 212, 213, 215, 216, 217, 219, 220, 221, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 236, 239, 240, 241, 254, 260, 261, 262, 263, 264, 265, 266, 268, 271, 272, 279, 280, 281, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 300, 301, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 314, 315, 316, 317, 318, 320, 321, 322, 323, 324, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 362, 363, 366, 367, 368, 369, 370, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 395, 396, 397, 399, 403, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 429, 439, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 488, 489, 490, 491, 492, 493, and 494 appear to involve big game crucial winter range. Of these, Parcels 100, 101, 103, 105, 106, 107, 108, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 147, 149, 155, 156, 157, 158, 159, 165, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 184, 185, 186, 187, 188, 189, 191, 192, 193, 194, 201, 202, 205, 211, 215, 216, 217, 219, 220, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 239, 254, 262, 263, 264, 265, 266, 268, 271, 272, 279, 280, 284, 285, 286, 290, 291, 292, 293, 294, 295, 300, 301, 304, 308, 309, 312, 314, 315, 316, 317, 329, 330, 331, 332, 333, 337, 339, 340, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 359, 366, 367, 368, 369, 370, 372, 373, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 395, 396, 397, 399, 403, 415, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 429, 439, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 488, 489, 490, 491, 492, 493, and 494 are slated for deferral under Alternative 3 of the Wind River/Bighorn EA, with which we agree. BLM must defer the sale of these lease parcels to maintain the integrity of the planning process pursuant to CEQ guidance on maintaining alternatives under review. Parcels 160, 161, 162, 166, 196, 202, 203, 204, 205, 210, 212, 213, 236, 240, 241, 281, 283, 287, 288, 289, 303, 305, 306, 309, 310, 311, 318, 326, 327, 334, 335, 336, 341, 356, 357, 358, 362, 363, 374, 375, 376, 377, and 416 are slated for partial deferral under the same alternative on grounds potentially or known to be unrelated to big game, which is a cause for concern; big game crucial ranges should be deferred in all cases where an RMP revision is underway. Please confirm that all big game crucial winter ranges are included in the lands deferred from leasing under this sale. Parcels 96, 221, 260, 261, 307, 320, 321, 322, 323, 324, and 328 are not slated for any kind of deferral under any alternative; the crucial big game range portions of these parcels need to be deferred pending completion of RMP revisions to avoid foreclosing on reasonable alternatives including no leasing and NSO-only leasing on big game winter ranges, which need to be considered by BLM. 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. A</p>	<p>Parcel 096 is the only parcel with in the High Plains District in this comment. That parcel's southernmost boundary abuts Crucial Winter Range but does does not contain it. The Casper Resource Management Plan also has sufficient stipulations to cover any future development of this lease if it found to have any Crucial Winter Range.</p>
7	Biodiversity Conservation Alliance	BCA7	<p>In addition, other parcels, including Parcels 4, 5, 11, 12, 14, 15, 18, 19, 20, 21, 22, 23, 24, 39, 40, 41, 42, 43, 44, 52, 53, 58, 59, 61, 66, 74, 80, and 88 are in important black-tailed prairie dog habitat and/or potential black-footed ferret reintroduction areas. 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>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.</p>
8	Biodiversity Conservation Alliance	BCA8	<p>Other associates of black-tailed prairie dogs that are imperiled are the mountain plover and swift fox. Due to their federally unprotected status, we are concerned that BLM has not adequately assessed the impacts of oil and gas industrialization on these species. Oil and gas activities usually include road-building and increased vehicular traffic. Impacts from oil and gas development on plovers and swift fox include habitat fragmentation and isolation, disturbance during breeding activities, and perils from increased roads and vehicular traffic.²⁴</p>	<p>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.</p>
<p>The following comments were found in the comment referenced but answered in previous documents. The response is referenced herein. Please note that some responses referenced IM 2010-013 and those references would be</p>				

	Biodiversity Conservation Alliance		<i>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.</i>	See August 2012 Comment Responses, BCA4
	Biodiversity Conservation Alliance		<i>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.</i>	See August 2012 Comment Responses, BCA5
	Biodiversity Conservation Alliance		<i>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 1M 2004-110 Change 1.</i>	See February 2012 Comment Responses, BCA #1
	Biodiversity Conservation		<i>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.</i>	See February 2012 Comment Responses, BCA #2
	Biodiversity Conservation Alliance		<i>We request that all parcels listed above be withdrawn entirely from the sale if they fall within large-block unleased parcels inside Core Areas are being leased, and pending pre-leasing NEPA pursuant to the 2010 Interior Department leasing 1M. BLM should do its best to keep largely unleased areas of public land in Core Areas unleased, regardless of mineral ownership patterns. 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 rangewide.</i>	See February 2012 Comment Responses, BCA #3
	Biodiversity Conservation Alliance		<i>BLM should not issue these sage grouse parcels unless a rigorous set of stipulations, far stronger than those provided in the EA, are applied to the parcels. This should include, at minimum:</i> <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. <i>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. 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) 4 and 5.3 miles to protect nesting birds, with the understanding that the impacts of drilling and production activity would extend into the NSO buffer area from wells arrayed along its edge.</i>	See February 2012 Comment Responses, BCA #4
	Biodiversity Conservation Alliance		<i>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.</i>	See February 2012 Comment Responses, BCA #7
	Biodiversity Conservation Alliance		<i>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.,7 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.</i>	See February 2012 Comment Responses, BCA #8 and see page 9, Section 1.6,

	Biodiversity Conservation Alliance		<p><i>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.</i></p> <p><i>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.</i></p>	See February 2012 Comment Responses, BCA #9 and see page 9, Section 1.6,
	Biodiversity Conservation Alliance		<p><i>Parcels 136, 218,219,220,234, and 237 appear to involve antelope crucial winter range. In addition, Parcels 12, 13, 14, 16, 19, 31, 147, 149, 153, and 154 are mule deer crucial winter range. We urge BLM to issue these parcels only under No Surface Occupancy stipulations.</i></p> <p><i>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, II 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.</i></p> <p><i>The Parties recommend against selling the lease parcels listed above because BLM has again failed to comply with the Memorandum of Understanding and therefore has not provided a rational basis for its decision to offer lease parcels in areas with big game crucial winter range and parturition areas. Until such time as BLM complies with the Memorandum of Understanding it has no rational basis for its decision and the decision is arbitrary and capricious. We request that the parcels be withdrawn from the April 2009 lease sale .</i></p>	See February 2012 Comment Responses, BCA #12
	Biodiversity Conservation Alliance		<p><i>While BCA strongly recommends against the offering of any of these lease parcels for sale, at the minimum, all such parcels in big game crucial winter range and parturition areas should 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. 2 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.</i></p>	See February 2012 Comment Responses, BCA #13
	Biodiversity Conservation Alliance		<p><i>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 leasing stage, not the APD stage. See Center for Native Ecosystems, IBLA 2003-352, November 22, 2006.</i></p> <p><i>Just as important, these stipulations do not limit operational and production aspects of oil and gas development. See, for example, Jack Morrow Hills CAP EIS at A5-3. Obviously, if the stipulation does not reserve authority to BLM at the leasing stage, BLM must allow development despite severe impacts to winter ranges and big game, except for being able to require very limited "reasonable measures." These reasonable measures cannot be nearly broad enough to ensure crucial winter ranges and parturition areas are protected at the operation and production stage. See 43 CFR 3101.1-2.</i></p>	See February 2012 Comment Responses, BCA #14
	Biodiversity Conservation Alliance		<p><i>The Federal Land Policy and Management Act (FLPMA) requires BLM to "coordinate the land use inventory, planning, and management activities of [public lands] with the land use planning and management programs of ... the States and local governments ... by, among other things, considering the policies of approved State and tribal resource management programs." 43 USC 17121(9) (emphasis added). BLM must give special attention to "officially approved and adopted resource related plans." 43 CFR 1601.0-5(g). BLM must remain apprised of State land use plans, assure they are considered, and resolve to the extent practical, inconsistencies between state and federal plans. 43 USC 17121(9).</i></p> <p><i>There is no indication that BLM's winter timing stipulation is based on consideration of Wyoming's 1998 Mitigation Policy, or its new programmatic standards policy. See Footnote 3. It is apparent there has been no attempt to resolve inconsistencies between what BLM's stipulation provides and what Wyoming's mitigation policy requires. There are certainly inconsistencies. BLM's timing stipulation attempts to prohibit drilling during limited periods, yet this prohibition is frequently waived. IS Indeed, quite recently the WG&F asked BLM in Wyoming not to grant any waivers of stipulations last winter due to the lack of quality forage for big game in their winter range and the anticipated impacts that year-round drilling will have on big game under those conditions. BLM has refused to accede to this request and has proceeded to grant waivers. Wyoming's mitigation policy specifically seeks to fill gaps left by the timing stipulation, by requiring a number of standard management practices on crucial winter ranges in all cases. These recommendations are standing policy which WG&F expects to be applied in every instance of leasing in crucial winter range.</i></p>	See February 2012 Comment Responses, BCA #15

	Biodiversity Conservation		<i>The inconsistencies are even more glaring when one considers the fact that BLM's timing stipulation does not regulate the production phase. Until BLM considers and attempts to resolve these inconsistencies, it cannot allow the sale of the Crucial Winter Range Parcels to go forward. To do so would be a violation of NEPA.</i>	See February 2012 Comment Responses, BCA #16
	Biodiversity Conservation		<i>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.</i>	See February 2012 Comment Responses, BCA #17
	Biodiversity Conservation Alliance		<i>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.</i>	See February 2012 Comment Responses, BCA #18
	Biodiversity Conservation Alliance		<i>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." Mineral Policy Center v. Norton, 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.</i>	See February 2012 Comment Responses, BCA #19