

Appendix F Public Comments and Agency Response

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1	<p><u>Wyoming Game and Fish Department:</u></p> <p>We have 1 area of concern, parcel # 13 within mule deer crucial winter range and near a recent habitat enhancement project.</p> <p>1) We have concerns with parcel #13 that falls within mule deer crucial winter range and is near a habitat enhancement project that has occurred recently. In 2013 a project to enhance bitterbrush shrubs, a main food source for mule deer, was implemented with a Spike treatment and continued in 2014 with Juniper removal. These 2 vegetation enhancement projects border parcel #13. By leasing this parcel it has the potential to negate the vegetation enhancement projects that have occurred over the past 2-3 years.</p> <p>It has been established in the scientific literature that activity associated with gas and oil drilling displaces deer away from those activity centers. Because of the proximity of the parcel to the vegetation enhancement treatments we are asking that parcel 13 be removed from the November 2015 lease list.</p>	<p>Parcel 13 is recommended for deferral from leasing at the November 2015 lease sale at the discretion of the State Director pending completion of the RFO Visual Resources Management (VRM) RMP amendment.</p> <p>BLM is working on NEPA for juniper removal treatments in the area.</p>
2	<p><u>Miller Land and Livestock:</u></p> <p>We believe that our land, owned by the 67 Family Limited Partnership that is under a conservation easement with the Wyoming Land Trust should be deferred from the Nov. sale.</p> <p>This piece of land is in a conservation easement and is a very special piece of property. It was the site of the first cow -camp on the desert, dating back to 1883. Many old cowboys in this area cut their teeth working on the desert for old Rex Wardell at that camp up to 30 years ago.</p> <p>Not only does it have a history but it is an oasis on the desert. Until they started fracking around on the desert, this place had an artesian well that ran all year long. There is an old water well there also that could probably produce again.</p> <p>It is the only place for miles and miles around that has cottonwood trees – made possible from the spring that used to run. There is a natural reservoir next to the well that the well had created.</p> <p>We hope that the artisan well will start to run again. We have spoke with BLM and NRCHS about developing a sage-grouse habitat there and drilling to get the artesian</p>	<p>The parcel you are referencing, #40, consists of 480.00 acres, of which 400.00 acres are split estate lands owned by the 67 Family Limited Partnership.</p> <p>This parcel, is located in an area open for oil and gas leasing in accordance with the land use plan. The BLM has attached a Special Lease Notice to the parcel, which states: “The private surface within this parcel belonging to 67 Family Limited Partnership is encumbered by a Conservation Easement granted to the Wyoming Land Trust. The lessee is encouraged to coordinate and cooperate with 67 Family Limited Partnership and the Wyoming Land Trust to maintain the integrity of the Conservation Easement.”</p> <p>Per 43 CFR 3160 and Onshore Order #1, prior to granting an Application for Permit to Drill, the Operator must negotiate a Surface Access Agreement across fee surface. As well, during the APD review process, the BLM will consult with you to determine what your needs and wishes are for the project and will incorporate them to the extent required to comply with law.</p> <p>Lease Notice No. 1 restricts or prohibits surface</p>

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	<p>well or other well going again. Twice we submitted plans, everyone got excited and then the BLM guy was transferred and it all died. When I get the time I plan on pursuing this again or we will follow through on our own. My husband has seen artesian wells dry up and run again when the water level heightens, hopefully that happens soon.</p> <p>Anyway, If you sent a scout out to look it over, I am sure you would agree that this 480 acres should be deferred from the oil and gas lease sale.</p>	<p>disturbance within ¼ mile of occupied dwellings and is applied to all parcels to mitigate impacts to private residences. The State of WY also imposes a minimum 350' offset from all sources of drinking water including private water wells.</p> <p>In addition, this parcel has been leased two times previously, from 1977 through 2005.</p>
3	<p><u>WildEarth Guardians and Rocky Mountain Wild:</u></p> <p>The following are the lands and wildlife comments of WildEarth Guardians and Rocky Mountain Wild on the Wyoming BLM's November 2015 Lease Sale EA for the High Desert District. Guardians will be submitting separate comments on this EA on the subjects of climate change, the social costs of carbon, and air quality. For many years, the BLM has prioritized oil and gas leasing and development over other multiple uses such as wildlife, watersheds, and public recreation. It is time for the BLM to restore some balance among resource uses in Wyoming, and render extractive industries more compatible with maintaining healthy ecosystems and public enjoyment of the land. Generally speaking, we would support a modified version of the BLM Preferred Alternative adjusted to address our concerns, but in this case the problems with this proposed lease sale and its NEPA analysis are so pervasive that we recommend scrapping the entire effort and adopting Alternative A, the No Action alternative.</p> <p>BLM attaches a number of stipulations, most notably timing stipulations, and relies upon them to reduce impacts to sensitive wildlife resources without ever analyzing the effectiveness of these stipulations. Many of these stipulations are known to be ineffective as outlined below.</p> <p>We concur with the intention to defer parcels entirely or in part based on the sage grouse PriorityHabitat screen and, at the discretion of the State Director, to defer parcels within core areas that contain less than 640 acres as well, totaling 71,625 acres. EA at 2.</p>	<p>Thank you for your comments. No response needed</p>
4	<p><u>WildEarth Guardians and Rocky Mountain Wild:</u></p> <p>Sage Grouse 52, 53, 54, 56, 62, 63, 64, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, and 83, are completely or</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.</p>

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	<p>partially within sage grouse Core Areas. 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 by BLM Instruction Memorandum requiring that National Technical Team recommendations be analyzed in detail, and leasing Core Area lands regardless of what screening mechanisms they have been subjected to will violate CEQ guidance. Please note that the National Technical Team did not recommend screening parcels inside Core Areas for at least 11 square miles of unleased federal mineral estate before closing federal lands to future leasing.</p> <p>We agree with BLM’s recommendations to defer in whole or in part the offering of Parcels 17, 18, 51, 52, 64, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, and 83, which fall entirely or partially within Core Areas, as well as Parcel 6, which appears to be outside a Core Area yet is in a critical area for sage grouse. 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>Parcels 20, 24, and 45 appear to fall entirely within Core Areas, yet appear to be slated for only partial deferral.</p> <p>Parcels 4, and 7 fall entirely or partially within a Core Area, yet are not earmarked for even partial deferral. Regardless of whether these parcels are within 11 square miles of contiguous unleased federal estate or not, BLM must retain the option to preclude future leasing in these areas under the RMP revisions/amendments currently underway. For this reason, these parcels should be deferred as well.</p> <p>In addition, Parcels 1, 2, 3, 5, and 6 are outside designated Core Areas yet are in habitats of extreme high value as sage grouse habitat. These should be deferred as well.</p> <p>BLM chose not to consider deferring all parcels that fall within sage grouse Core Areas:</p> <p style="padding-left: 40px;">An alternative was considered that would defer all</p>	<p>We continue to assert that the impacts from an alternative that would consider not leasing in core is imbedded within the No Action alternative and its impacts are within the scope of the analysis. This comment provides no information which would change this determination.</p> <p>The November 2015 Sale does not provide an opportunity to challenge or protest BLM’s ongoing land use planning efforts.</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’ which is internal guidance to staff for management of sage grouse under the BLM Wyoming Sensitive Species Policy while the RMP amendments/revisions are ongoing. The adverse of this alternative is the Full Leasing alternative. The impacts of leasing all parcels without the screen has been appropriately considered.</p> <p>All parcels are screened against the management actions proposed (preferred) in the draft RMP EIS’ to ensure that offering parcels for sale does not preclude our ability to select any alternative in a ROD. This comment does not identify any specific conflict.</p> <p>All parcels for the November 2015 proposed sale 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 20040-110, 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>Additional stipulations are beyond the scope of this document. Oil and gas stipulations are developed at the RMP level. They cannot be changed unless done at that level.</p>

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	<p>remaining parcels that are located within sage-grouse core areas. This alternative was not carried forward into detailed analysis because it is not supported by IM WY-2012-019, Greater Sage-Grouse Habitat Management Policy on Wyoming Bureau of Land Management (BLM) Administered Public Lands Including the Federal Mineral Estate and IM WO-2012-043, Greater Sage-Grouse Interim Management Policies and Procedures, and the impacts are embedded within the No Action.</p> <p>EA at 7. This alternative is a fully reasonable and well-reasoned option, and BLM’s explanation for why it was not considered in detail is inconsistent with the precepts of NEPA. Neither IM referenced precludes BLM from adopting stronger protection measures for sage grouse than are explicitly prescribed under the guidance they contain. Under NEPA, BLM must consider a range of reasonable alternatives, including those that are outside the agency’s authority to implement. In this case, such an alternative would be fully within BLM’s authority to implement; state office or national Instruction Memoranda are readily replaced without NEPA process.</p> <p>A decision not to defer parcels which are part of an area less than 11 square miles of BLMcontrolled, unleased land would be derived 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 Amendments 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 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 2012 Wyoming leasing IM. 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</p>	

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	<p>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%; one of WGFD's biologists reported a 40% statewide decline over the last 20 years. As of 2014, WGFD data reports a 60% population decline statewide since 2007. See also Attachment 1. 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 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> <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>In addition, many parcels are within designated Preliminary General Habitat (PGH) under the Wyoming Sage-grouse RMP Amendment DEIS preferred alternative including Parcels 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15,</p>	

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	<p>16, 19, 37, 38, 39, 40, 41, 42, 43, 44, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 81, 82, and 83 according to our lease screens. All portions of these parcels falling within PGH should be deferred as well, in order to retain the decision space for “no leasing” or No Surface Occupancy for Preliminary General Habitats under the sage grouse-related RMP revisions and amendments currently underway, which provide the only legally sufficient EIS underpinning to allow leasing in the habitat of a Candidate Species. It is important to note that the significant new information that has arisen regarding greater sage grouse (Candidate Species designation, National Technical Team report, and numerous scientific and technical reports) apply also to Preliminary General Habitats. Current BLM sage grouse protections (quarter-mile NSO and 2-mile TLS stipulations) have been shown by this new information to be inadequate to maintain this BLM Sensitive Species. In addition, Garton (2015) performed a population persistence analysis that indicates a 65.3% chance that the sage grouse population will drop below 50 in the Wyoming Basin Management Zone (encompassing all lease parcels in this sale) in 100 years. See Attachment 1. This population level equates to functional extinction for the largest remaining sage grouse population in the world, and BLM is required by its Sensitive Species policy to take all measures necessary to avoid this outcome, including withdrawing the sage grouse parcels in this sale.</p> <p>Every single parcel in this lease sale except Parcels 10, 12, 13, 19, 20, 22, 23, 30, 33, 34, 41-44, 57, 81, and 82 is located within 4 miles of one or more active 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, and significant impacts in terms of displacement of sage grouse from otherwise suitable habitat as well as significant population declines have been documented. 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 4-mile No Surface Occupancy stipulations around active 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>	

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	<p>impacts.</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, nevermind 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 drilling and production activity would extend into the NSO buffer area from wells arrayed along its edge.</p> <p>Because leks sites are used traditionally year after year and represent selection for optimal breeding and nesting habitat, it is crucially important to protect the area surrounding lek sites from impacts. In his University of Wyoming dissertation on the impacts of oil and gas development on sage grouse, Matthew Holloran stated, “current development stipulations are inadequate to maintain greater sage grouse breeding populations in natural gas fields.” (Notably, these exact stipulations are being applied by BLM in this lease sale for non-Core Area sage grouse habitat parcels). The area within 2 or 3 miles of a sage grouse lek is crucial to both the breeding activities and nesting success of local sage grouse populations. Dr. Clait Braun, the world’s most eminent expert on sage grouse, has recommended NSO buffers of 3 miles from lek sites, based on the uncertainty of protecting sage grouse nesting habitat with smaller buffers. Thus, the prohibition of surface disturbance within 3 miles of a sage grouse lek is the absolute minimum starting point for sage grouse conservation.</p> <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). This study 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</p>	

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	<p>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>Wyoming Game and Fish Department biologists have reached a consensus that the Timing Limitation Stipulations proposed for sage grouse in this lease sale are ineffective in the face of standard oil and gas development practices. These stipulations have likewise been condemned as inadequate by the U.S. Fish and Wildlife Service and renowned sage grouse expert Dr. Clait Braun. The BLM itself has been forced to admit that “New information from monitoring and studies indicate that current RMP decisions/actions may move the species toward listing...conflicts with current BLM decision to implement BLM’s sensitive species policy” and “New information and science indicate 1985 RMP Decisions, as amended, may not be adequate for sage grouse.” Continued application of stipulations known to be ineffective in the face of strong evidence that they do not work, and continuing to drive the sage grouse toward ESA listing in violation of BLM Sensitive Species policy, is arbitrary and capricious and an abuse of discretion under the Administrative Procedures Act</p> <p>The restrictions contained in IM No. WY-2012-019 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 “the radius of the perimeter of occupied sage-grouse leks,” a far cry from the science-based 4-mile buffer recommended by the BLM’s own National Technical Team. By acreage, a 0.6-mile buffer encompasses less than 4% of the nesting habitat contained within the 4-mile buffer recommended by agency experts, and therefore does essentially nothing to protect sensitive nesting habitats. Even less protective, restrictions outside Core or Connectivity Areas allow surface disturbing activities and surface occupancy as close as one quarter (0.25) of a mile from leks. BLM has too</p>	

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	<p>great an abundance of data to the contrary to continue with scientifically unsound stipulations as used in IM WY-2012-019 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. BLM should apply the recommendations of the National Technical Team instead, and in the meantime defer leasing until these recommendations can be formally adopted through the plan amendment/revision process. 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>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>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>We recommend against the sale of any lease parcels which</p>	

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	<p>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 have seen no evidence of this in the November 2015 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 under its Sensitive Species Manual.</p> <p>In 2010, the greater sage grouse became a Candidate Species under the Endangered Species Act, and a final listing determination is due by court order in September of 2016. These facts constitute significant new information that has not been addressed in programmatic NEPA analysis for any of the Resource Management Plans that support the Wyoming November 2015 oil and gas lease sale. In addition, numerous scientific studies have been published indicating that BLM mitigation measures in these plans are insufficient and will not prevent significant impacts to sage grouse, and these studies also constitute significant new information not addressed in RMP decisionmaking. Finally, in 2013 the U.S. Fish and Wildlife Service identified Priority Areas for Conservation, and BLM subsequently identified Preliminary Priority Habitats and Preliminary General Habitats in its RMP Amendment Draft EIS, which also constitute significant new information, potentially significant impacts to which have yet to be addressed through an EIS.</p> <p>We remain concerned that development activities on the sage grouse parcels noted above will result in significant impacts to sage grouse occupying these parcels and/or the habitats nearby, and the BLM's programmatic NEPA underlying this lease sale does not adequately address these significant impacts in light of new information. Therefore, the requisite NEPA analysis to support the leasing of the sage grouse parcels listed above in the absence of an Environmental Impact Statement does not exist.</p>	

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5	<p><u>WildEarth Guardians and Rocky Mountain Wild:</u></p> <p>Ungulate Crucial Habitats Parcels 13, 51, 53, 56, 62, 63, 64, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, and 83 fall within mule deer crucial winter ranges and/or migration corridors. Parcels 2, 3, 9, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40, 43, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 57, 58, 62, 65, 68, 71, 72, 74, 75, 76, 77, 78, and 79 fall partially or entirely within antelope crucial winter ranges, migration corridors, and/or parturition areas. Parcels 2, 3, and 5 also fall at least partially within the Red Rim – Daley Special Management Area, established to protect antelope winter range. Parcels 18, 47, 51, 52, 53, 54, 55, 56, 57, 63, 71, 72, 73, 74, 75, 76, 77, 78, 79, fall within elk crucial winter ranges, migration corridors, and/or parturition areas. All portions of these parcels falling within big game crucial ranges should be deferred or at least placed under No Surface Occupancy stipulations to protect these sensitive lands and prevent impacts to these species. BLM has authority to apply a greater level of protection than is called for under the RMP to subsequent oil and gas development decisions, and we call upon the agency to employ this authority to protect these sensitive wildlife habitats.</p> <p>The crucial big game range portions of these parcels falling within the Rock Springs Field Office need to be deferred due to pending completion of the Rock Springs RMP revision 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 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>In its April 2008 Decision on a challenge of the June 6, 2006 lease sale, the Interior Board of Land Appeals 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</p>	<p>Absent a definitive development proposal it is not possible to conduct 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 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>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 and could include additional measures to mitigate impacts to wintering big game from production related activities. With appropriate site-specific analysis, restrictions on production related activities could be imposed. G&F is encouraged to participate in the review of all APDs in big game crucial winter range, and to submit “best practices” they feel are necessary to mitigate any potential negative impacts, at that time in accordance with our MOU. WEG as well, is encouraged to participate in this process.</p> <p>The BLM’s responsibility under the FLPMA is to ensure that public lands are managed “under principals of multiple use and sustained yield.” 43 USC§1732(s). “Multiple use management” is a deceptively simple term that describes the enormously complicated task of striking a balance among the many competing uses to which lands be put, ‘including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and [uses serving] natural scenic, scientific and historical values.’“ Norton v. S. Utah Wilderness Alliance, 542 US 55, 58 (2004) (quoting 43 USC §1702(c). BLM’s second goal, sustainable yield, “requires BLM to control depleting uses over time, so as to ensure a high level of valuable uses in the future.” Id.) (citing 43 USC 1702§ (h)). Accordingly, BLM is not required, under FLPMA, to adopt the practices best suited to protecting wildlife, but instead to balance the protection of wildlife with the nation’s immediate and long-term need for energy</p>

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	<p>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.</p> <p>We recommend against selling the lease parcels listed above because BLM has in cases where parcels are not deferred 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 upcoming lease sale.</p> <p>While WildEarth Guardians 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. 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. The effectiveness of Timing Limitation Stipulations has been neither tested nor established by any other method by BLM, and the overall 30% decline of the Pinedale Mesa mule deer population while TLS stipulations were applied demonstrates their ineffectiveness.</p> <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 leasing stage, not the APD stage. See Center for Native Ecosystems, IBLA 2003-352, November 22, 2006.</p> <p>Timing stipulations are not total prohibitions on drilling during the stressful winter period. Exceptions to the stipulations are regularly—almost automatically—granted anytime a lessee requests it. See, for example, http://www.wy.blm.gov/pfo/wildlife/exceptions.php (Pinedale Field Office winter range stipulation exceptions)</p>	<p>resources. (See TRCP vs. Salazar, No. 08 Civ. 1047 (RJL) (C.A. D.C., Sept. 29, 2010)).</p> <p>BLM will add the following Special Lease Notice to parcels 2, 3, 5, 6, 8, 9, 13, 15, 19, 20, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50, 53, 54, 55, 56, 57, 58, 59, 60, 62, 63, 65, 66, 67, 68, 69, 70, 81, 82, 83: This parcel is located within areas of delineated crucial winter range and/or identified migration corridors. BLM will consider recommendations received by the Wyoming Game and Fish Department, generally contained within a document entitled “Recommendations for Development of Oil and Gas Resources within Important Wildlife Habitats” (http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/HABITAT_OILGASRECOMMENDATIONS0000333.pdf) if and when development of this lease is proposed. BLM will encourage the use of Master Development Plans in accordance with Onshore Order #1, on this lease parcel to the extent possible.</p>

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	<p>which shows that 123 exceptions were granted for the winter of 2006-2007. Similar statistics are available for other Wyoming Field Offices</p> <p>The enthusiasm with which the BLM has granted winter-long exceptions to the stipulation for drilling on crucial winter range further illustrates the totally discretionary nature and consequent ineffectiveness of this stipulation. Under the Lander RMP EIS, BLM proposes a Timing Limitation on surface disturbing and disruptive activities during the winter season of use in the agency's Preferred Alternative. Disruptive activities would include vehicle traffic and human presence at the wellpad, which disturb wintering big game. These are the type of TLS stipulations that need to be applied to winter range, parturition areas, and migration corridors for the upcoming lease sale.</p> <p>Just as important, traditional 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 <i>leasing stage</i>, 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 <i>and</i> production stage. See 43 CFR 3101.1-2.</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 "which is the determining factor in a population's ability to maintain and reproduce itself . . . over the long term." Id. 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. Mitigation Policy at 5.</p> <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</p>	

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	<p>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>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>Scientific literature makes it clear that there will be loss of function if significant exploration and development occurs on the leaseholds. In prior Protests the parties have submitted substantial evidence showing that big game species are negatively affected by oil and gas drilling on winter ranges. See the studies referenced above. These studies document the negative effects of oil and gas drilling on big game winter ranges and winter range use, as well as on big game migration routes, even when winter timing stipulations are in effect. For parcels intersecting migration corridors to be offered at auction, special timing limitation stipulations should be attached that prevent construction, drilling, or production-related activity and vehicle traffic on the lease during the migration periods. To these parcels, BLM should attach stipulations that prohibit not just construction activity but also project-related vehicle traffic and human presence at the wellsite within 0.5 mile of the migration corridor during its season(s) of use.</p> <p>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 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</p>	

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	<p>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 RMP Draft EIS 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> <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 does 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 Federal Land Policy and Management Act (FLPMA) requires BLM to “coordinate the land use inventory, planning, and <i>management activities</i> of [public lands] with the land use planning and management programs of . . . the States and local governments . . . by, among other things, considering the policies of approved State and tribal resource management programs.” 43 USC 1712I(9) (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 1712I(9).</p> <p>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. 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. Indeed, quite recently the</p>	

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	<p>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 and exceptions. 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.</p> <p>These 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.</p> <p>Furthermore, timing stipulations attached to the Crucial Winter Range Parcels are 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.</p> <p>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>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]</p>	

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	<p>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 .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>	
6	<p><u>WildEarth Guardians and Rocky Mountain Wild:</u></p> <p>Wilderness Parcels 13, 38, 39, 40, 42, 43, and 44 fall within designated lands with wilderness qualities (LWCs) for which BLM has not adequately conducted a NEPA analysis regarding the significant impacts that will inevitably occur when the rights and privileges accorded to mineral leaseholders are exercised as a direct result of leasing the parcels. The Rock Springs RMP revision is currently underway and this NEPA process must determine whether to manage LWCs to protect their wilderness characteristics; leasing these parcels will impair BLM’s decision space to manage these lands for wilderness qualities. The Rawlins RMP is currently under a plan amendment process for Visual Resource Management which also must address LWCs according to BLM policy direction. Parcel 13 falls within the Adobe Town Area B LWC unit, and has been properly marked for deferral from the lease sale. EA at 7. We applaud BLM’s decision not to lease this area before a decision can be rendered regarding the management of the wilderness characteristics on this parcel.</p>	<p>It is beyond the scope of this EA to address the perceived validity and/or perceived deficiencies of the Field Office’s Lands with Wilderness Characteristics Inventory.</p> <p>Lands with wilderness characteristics are adequately addressed in Sections 3.2.3 and 4.2.3 of the EA. The EA and the maintenance of LWC inventories are in compliance with BLM Manuals 6310, “Conducting Wilderness Characteristics Inventory on BLM Lands” and Manual 6320, “Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process.”</p> <p>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>
7	<p><u>WildEarth Guardians and Rocky Mountain Wild:</u></p> <p>Other Special Areas Parcels 2, 3, and 5 fall within the Red Rim – Daley ACEC/Special Management Area. EA at 53. The area, under the Rawlins RMP, is open to oil and gas leasing under “intensive management” and its management goals include protecting pronghorn crucial winter habitat and raptor nesting habitat. Rawlins RMP ROD at 2-38. Special stipulations need to be attached to this parcel requiring that any oil and gas development minimize impacts to these habitat attributes.</p>	<p>BLM will add the following Special Lease Notice to Parcels 2, 3, and 5: This parcel is located within the Red Rim – Daley ACEC/Special Management Area. Development within the Red Rim – Daley ACEC/Special Management Area will be intensively managed per the Rawlins RMP and any proposed development will be reviewed in consideration of the “Recommendations for Development of Oil and Gas Resources within Important Wildlife Habitats” document authored by the WGFD prior to approving surface disturbance (http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/HABITAT_OILGASRECOMMENDATIONS0000333.pdf). BLM will encourage the use of</p>

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		Master Development Plans in accordance with Onshore Order #1, on this lease parcel to the extent possible.
8	<p><u>WildEarth Guardians and Rocky Mountain Wild:</u></p> <p>Conclusion Thank you for considering our comments on the November 2015 Leasing EA. Currently, the action alternatives are not implementable absent full-scale EISs, as they will result in significant impacts to sage grouse, big game crucial ranges, and other sensitive resources. Even more work remains to be done on big game crucial ranges, and other sensitive wildlife habitats. We believe that the BLM should also go farther, deferring additional parcels on sensitive lands as outlined above and also applying more protective stipulations to the parcels that are approved for sale.</p>	Thank you for your comments. No response needed.
9	<p><u>Summer Schulz:</u></p> <p>The Green River Valley Land Trust (aka Wyoming Land Trust) holds real interest in multiple properties encumbered by Conservation Easements in both Sweetwater and Sublette counties, Wyoming, as recorded with the respective county entities.</p> <p>Most recently, the Land Trust noted a BLM lease sale potentially affecting one of our conserved properties via a Sublette Examiner article dated Tuesday May 12, 2015, in which Joy Ufford interviewed the landowner regarding the sale. This was another surprise to the Land Trust as we did not receive any such notice, nor did the Land Trust receive notice of the previous lease sale in Sweetwater County associated with the conserved Sundance Mesa Ranches lands located in-between Rawlins and Wamsutter.</p> <p>As such, the Land Trust is requesting that the BLM please include our organization on ANY correspondence / notifications associated with mineral development (current, future or potential) including parcel leasing, on those properties which are currently encumbered by conservation easements held by the Green River Valley Land Trust / Wyoming Land Trust as recorded with both Sweetwater and Sublette counties.</p> <p>Please note that we would willingly work with your staff to update associated BLM databases by identifying those parcels of land encumbered by conservation easements held by our land trust organization. Also to note, there are other land trusts which may hold similar interest in other potentially affected properties also encumbered by</p>	<p>BLM's notification requirements for split estate surface property owners do not apply to easement holders. When BLM notifies the property owner, then it is up to the owner to notify the holders of easements on the particular property.</p> <p>The holder of a conservation easement is not properly considered a property owner. By definition, a conservation easement is a voluntary agreement where a property owner gives up certain development rights on the property, but retains ownership of the property.</p> <p>However, to the extent that BLM knows of a conservation easement in place for a particular property, while it might make sense to provide notice to the holder of the easement, (with the understanding that an easement holder is not a property owner) this could lead to difficulties if some easement holders receive notice while others do not, especially where conservation easements are held confidentially.</p> <p>Green River Valley Land Trust will be placed on the interested party list to receive notification of BLM High Desert District news releases.</p> <p>BLM appreciates your willingness to update associated BLM databases by identifying those parcels of land encumbered by conservation easements held by our land trust organization.</p>

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	conservation easements across Wyoming.	
10	<p><u>Sweetwater County Board of County Commissioners:</u></p> <p>Thank you for the opportunity to comment on the November 2015 Oil and Gas Lease Parcel Environmental Assessment (EA). The following are Sweetwater County's comments:</p> <p>1) Sweetwater county supports the BLM preferred Alternative B which proposes to lease a combined total of 50 whole and partial parcels that contain 76,182.130 acres. This support is based on the fact that 435 of the Sweetwater County assessed valuation and 41% of the State of Wyoming assessed valuation are based on oil and gas production. This fact makes continued leasing of oil and gas parcels by BLM a vital component of the economy of the county and the state.</p> <p>2) Although Sweetwater County supports the BLM's Preferred alternative B, the county has the following comment in relation to this alternative:</p> <p style="padding-left: 20px;">a) The Preferred alternative B proposes to defer 48 whole and partial parcels containing 72,025.000 acres from the proposed lease sale. The purpose of this proposed deferral is to allow time for the completion of the BLM Sage Grouse Nine Plan amendment and the Rawlins Field Office Visual resource management Plan Amendment.</p> <p>Since both of these plan amendments are scheduled for completion in the near future, once these amendments are approved, Sweetwater County strongly recommends that the BLM release these parcels from withdrawal and then offer them for leasing.</p> <p>3) Sweetwater County appreciates BLM's emphasis in the EA that "Purchasers of oil and gas leases are required to obey all applicable federal, state, and local laws and regulations including obtaining all necessary permits should lease development occur..." The County welcomes the opportunity to work with developers in obtaining the necessary County permits which may range from Zoning and Land Use Permits to Road Access and Crossing Permits.</p>	Thank you for your comments. No response needed

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11	<p><u>The Wilderness Society:</u></p> <p>Thank you for the opportunity to comment on the High Desert District Office’s Draft Environmental Assessment (Draft EA) for the November 2015 Lease Parcels. We fully support the Wyoming State Director’s decision to defer parcel WY-1511-013. As explained in the Draft EA, this parcel is located in part of the Adobe Town “fringe” with inventoried wilderness characteristics. Draft EA at 79. Consistent with requirements of the Federal Land Policy and Management Act (FLPMA) and related policies concerning inventory and evaluation of lands with wilderness characteristics,¹ the deferral will permit the Bureau of Land Management (BLM) to fully consider parcel 13’s wilderness characteristics during the land use planning process.</p>	<p>Thank you for your comment. No response needed.</p>
12	<p><u>The Wilderness Society:</u></p> <p>However, based on information and decisions proposed in the Draft EA, we are concerned that the BLM has not fulfilled its inventory and evaluation responsibilities for other parcels – specifically, parcels WY-1511-009, -011 and -016 in the Rawlins Field Office (RFO) and parcels -041 and -045 in the Rock Springs Field Office (RSFO). Both of those field offices are currently updating their wilderness inventories and conducting land use planning processes. The Wilderness Society and its partners have reviewed and identified procedural and substantive issues with those inventories in comments to the BLM. See Attachments 1, 2. Until those issues are resolved, and the BLM has developed compliant wilderness inventories and evaluated those inventories through the planning process, the BLM may not commit parcels that may contain wilderness characteristics, including the parcels specified above, to oil and gas development.</p>	<p>It is beyond the scope of this EA to address the perceived validity and/or perceived deficiencies of the Field Office’s Lands with Wilderness Characteristics Inventory.</p> <p>Lands with wilderness characteristics are adequately addressed in Sections 3.2.3 and 4.2.3 of the EA. The EA and the maintenance of LWC inventories are in compliance with BLM Manuals 6310, “Conducting Wilderness Characteristics Inventory on BLM Lands” and Manual 6320, “Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process.”</p>
13	<p><u>The Wilderness Society:</u></p> <p>I. BLM Has Not Fulfilled Its Duties Under FLPMA and Related Policies to Inventory and Evaluate Management Alternatives for Lands with Wilderness Characteristics.</p> <p>Under FLPMA, BLM must maintain a current wilderness inventory for public lands under its jurisdiction and consider that inventory during the land use planning process. 43 U.S.C. § 1711(a); see also <i>Ore. Natural Desert Ass’n v. BLM</i>, 625 F.3d 1092, 1122 (9th Cir. 2010) (confirming the obligation of BLM to consider wilderness characteristics in its planning process). Furthermore, BLM must comply with its own policies that detail how to</p>	<p>Lands with wilderness characteristics are adequately addressed in Sections 3.2.3 and 4.2.3 of the EA. The EA and the maintenance of Lands with Wilderness Characteristics inventories are in compliance with BLM Manuals 6310, “Conducting Wilderness Characteristics Inventory on BLM Lands” and Manual 6320, “Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process.”</p> <p>Manual 6310 states: “...the preparation and maintenance of the inventory shall not, of itself, change or prevent change of the management or use of public lands. As such, parcels that have been found to possess wilderness characteristics</p>

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	<p>comply with FLPMA obligations on conducting inventories for wilderness characteristics and considering those inventories during land use planning.</p> <p>BLM's current policies require the agency to evaluate alternatives to protect lands with wilderness characteristics. Per IM 2011-154:</p> <p>Consistent with FLPMA and other applicable authorities, the BLM will continue to consider the wilderness characteristics on public lands as part of its multiple-use mandate in developing and revising land use plans and when making subsequent project level decisions. In accordance with NEPA, BLM offices must analyze the potential effects of proposed actions and alternatives for land use plan decisions on lands with wilderness characteristics when they are present.</p> <p>(emphases added). In addition, BLM's leasing guidance, IM 2010-117, requires the agency to</p> <p>review parcels in light of the most current national and local program-specific guidance to determine availability of parcels for leasing and/or applicable stipulations (e.g., to address conservation strategies and protect archaeological resources, traditional cultural properties, paleontological resources, specially designated areas on or near BLM administered lands, sensitive species, watersheds, fisheries and wildlife habitat, visual resources, air quality, and wilderness qualities).</p> <p>(emphases added).</p> <p>Finally, Manual 6310 establishes procedures for conducting wilderness inventories and standards for evaluating the requisite "size," "naturalness" and "outstanding opportunities for primate and unconfined types of recreation," including the following:</p> <p>The area must appear to have been affected primarily by the forces of nature, and any work of human beings must be substantially unnoticeable. Examples of humanmade features that may be considered substantially unnoticeable in certain cases are: trails, trail signs, bridges, fire breaks, pit toilets, fisheries enhancement facilities, fire rings, historic properties, archaeological resources, hitching posts, snow gauges, water quantity and quality measuring devices, research monitoring markers and devices, minor radio repeater sites, air quality monitoring devices, fencing, spring developments, barely visible linear disturbances, and</p>	<p>will be managed according to the applicable RMP. We have properly disclosed this information in the record.</p> <p>The BLM Land Use Planning Handbook (H-1601-1) states that the BLM must consider the management of lands with wilderness characteristics during the land use planning process. The criteria used to identify these lands are essentially the same criteria used for determining wilderness characteristics for wilderness study areas (WSA). However, the authority set forth in section 603(a) of FLPMA to complete the three-part wilderness review process (inventory, study, and report to Congress) expired on October 21, 1993; therefore, FLPMA does not apply to new WSA proposals and consideration of new WSA proposals on BLM-administered public lands is no longer valid. The BLM is still required under Section 201 of FLPMA to "...maintain on a continuing basis an inventory of all public lands and their resource and other values...." This includes reviewing lands, in this case lease parcels, to determine if they possess wilderness characteristics.</p> <p>Parcels or portions of parcels that have been determined to have lands with wilderness character in compliance with WO IM -2011-154. WO 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.</p> <p>It is beyond the scope of this EA to address the validity and/or perceived deficiencies of the Field Office's Lands with Wilderness Characteristics Inventory.</p>

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	<p>stock ponds. . . . Some human works are acceptable so long as they are substantially unnoticeable. Avoid an overly strict approach to assessing naturalness.</p> <p>****</p> <p>Undeveloped ROWs and similar undeveloped possessory interests (e.g., mineral leases) are not treated as impacts to wilderness characteristics because these rights may never be developed.</p> <p>Manual 6310 at 6, 7, 10 (emphases added).</p>	
14	<p><u>The Wilderness Society:</u></p> <p>Both the RFO and RSFO are currently updating their wilderness inventories and are still evaluating comments and additional information provided by TWS and the broader public on their inventories. The RFO released an initial inventory for public review and comment in April 2014, while the RSFO posted an inventory online in December 2014. In both cases, TWS provided extensive comments and raised serious concerns about the methodologies and findings of the inventories. Additionally, these comments specifically addressed deficiencies in the inventories with respect to lands containing parcels 9, 11, 16, 4, and 45, which are summarized below.</p> <p>A. The BLM is impermissibly relying on wilderness inventories that do not comply with applicable law and policy.</p> <p>The BLM’s current wilderness inventories for the RFO and RSFO do not comply with FLPMA or Manual 6310. Consequently, the BLM may not lease parcels 9, 11, 16, 41 and 45, all of which are located in units whose wilderness inventories are deficient. As explained below, among other flaws, those inventories improperly utilized “an overly strict approach to assessing naturalness.”</p>	<p>The Field Office wilderness inventories are in compliance with the policies of WO IM-2011-154. The Lands with Wilderness Characteristics inventories for parcel areas were reviewed and determined to be adequate.</p> <p>It is beyond the scope of this EA to address the validity and/or perceived deficiencies of the Field Office’s Lands with Wilderness Characteristics Inventory.</p>
15	<p><u>The Wilderness Society:</u></p> <p>1. Parcel 9 (WY-1511-009) (RFO)</p> <p>Parcel WY-1511-009 falls within the wilderness inventory unit identified by the RFO as the “Cherokee Creek East Fork” unit (BLM WY-030-12N93W5-2012). In its inventory, BLM found that the Cherokee Creek East Fork unit did not meet the criteria for lands with wilderness characteristics because “primitive routes and range improvements” prevented the unit from meeting the naturalness criterion. However, these claims were not</p>	<p>Please see response to Comment # 14</p>

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	<p>backed up with photographic evidence, route analysis forms or other documentation that might show which routes BLM determined were substantially noticeable. BLM simply assumed that all primitive routes within the unit were substantially noticeable and therefore caused the area to lack “apparent naturalness.”</p> <p>BLM also cited “range improvements,” including “four man-made reservoirs,” as another reason this unit could not be deemed natural in appearance to the casual visitor. As Manual 6310 makes clear, stock ponds, spring developments, fences and other range improvements are “examples of human-made features that may be considered substantially unnoticeable.” Manual 6310 at 6. Moreover, in this case, four reservoirs within a 17,000 acre unit are unlikely to affect the naturalness of the area as a whole. BLM’s own map for this wilderness inventory unit locates these “reservoirs” along the western periphery of the unit, and each reservoir is less than an acre in size. These features should be considered minor impacts that should not disqualify the naturalness of the unit as a whole; at the very least, they should be cherry-stemmed out of the unit so that the naturalness of the remaining territory can be adequately assessed.</p>	
16	<p><u>The Wilderness Society:</u></p> <p>2. Parcel 11 (WY-1511-011) (RFO)</p> <p>Parcel WY-1511-011 falls within the BLM Rawlins “Willow Creek” wilderness inventory unit (BLM WY-040-14N96W36-2012). In its inventory, BLM determined that the unit did not meet the naturalness criteria because of “numerous oil and gas wells, primitive routes, wilderness inventory roads, and permanent range improvements.” This statement directly contradicts the map included in BLM’s inventory report. The map shows that the unit contains just a few short wilderness inventory roads and unimproved two-track trails along its periphery, most of which lead to abandoned and shut-in oil and gas wells. Only three wells in the unit are currently producing, and these are all located along the edges of the unit; they could easily have been carved out of the unit boundaries prior to assessing the area’s naturalness, yet the BLM made no apparent effort to do, in spite of direction in Manual 6310 to “[a]void an overly strict approach to assessing naturalness” and, assuming the wells even impact the unit’s naturalness, to “[d]efine the area with wilderness characteristics to exclude . . . substantially noticeable human-caused impacts.” Manual 6310 at 7, 9.</p> <p>Assuming that the Wilderness Inventory Roads shown on</p>	Please see response to Comment # 14

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	<p>the map actually qualify as roads for wilderness inventory purposes, as defined by Manual 6310, the BLM could still have drawn a boundary for this unit that would have excluded those human impacts while retaining sufficient acreage to justify further assessment of wilderness characteristics under Manual 6310. The boundaries for this unit should be redrawn according to the guidelines of Manual 6310, and the properly defined unit should be reassessed for the presence or absence of wilderness characteristics prior to offering this parcel for lease.</p>	
17	<p><u>The Wilderness Society:</u></p> <p>3. Parcel 16 (WY-1511-016) (RFO)</p> <p>Parcel WY-1511-016 falls within the RFO’s “Cyclone Rim North” wilderness inventory unit. BLM also determined that this unit, like the majority of the units inventoried in this field office, did not meet the naturalness criteria because of “numerous oil and gas wells, primitive routes, wilderness inventory roads, and permanent range improvements.” That determination is not consistent with Manual 6310 for the following reasons.</p> <p>First, this unit has only three producing wells, all located along the boundaries of the unit. Second, Manual 6310 is clear that routes determined to be wilderness inventory roads should be excluded from and used as boundaries for wilderness inventory units. Third, range improvements are explicitly cited in Manual 6310 as human-made impacts that may be considered “substantially unnoticeable” when assessing naturalness. However, BLM made no effort to identify which range improvements are substantially noticeable and why could not be carved out from the boundaries of the unit. Finally, BLM cited primitive routes as one of the negative impacts affecting the naturalness of the unit and included a photo of one of the “substantially noticeable” primitive routes. The photo shows a route that may once have been constructed using mechanical means, but is clearly no longer maintained using mechanical means. From almost any distance, an observer would not identify the road as a “substantially noticeable” feature, let alone one that detracts from the 28,500 acre unit as a whole. BLM did not include photos of the other “61.7 miles of primitive routes” it cited in its inventory as impacts to naturalness, but the photograph provided suggests that many of these routes are not constructed or maintained, do not qualify as wilderness inventory roads and have no effect on the naturalness of the large unit as a whole.</p>	<p>Please see response to Comment # 14</p>

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18	<p><u>The Wilderness Society:</u></p> <p>4. Parcel 41 (WY-1511-041) (RSFO)</p> <p>This parcel overlaps with two wilderness inventory units identified by the Rock Springs Field Office—WY040-2011-144 and WY040-2011-002 (see Attachment. The existing lands with wilderness characteristics inventories for these units do not meet the standards for LWC inventories as defined by Manual 6310. The Wilderness Society has conducted an updated inventory for this area that meets the standards described by Manual 6310 and results in new boundaries for a qualifying body of contiguous unroaded BLM lands containing the necessary criteria of sufficient size, apparent naturalness, and outstanding opportunities for solitude and primitive and unconfined recreation. See the attached, Appendix A: Devils Playground: Henry’s Fork Hills Lands with Wilderness Characteristics Inventory for extensive details regarding this area’s wilderness characteristics. This reports constitutes “new information” as defined by Manual 6310 and should be assessed and responded to prior to leasing Parcel 41 (WY-1511-041).</p>	Please see response to Comment # 14
19	<p><u>The Wilderness Society:</u></p> <p>5. Parcel 45 (WY-1511-045) (RSFO)</p> <p>This parcel partially overlaps the western corner of the “Cattail Draw Wilderness Inventory Unit” (BLM WY040-2011-137) in the RSFO. The RSFO inventory disqualified this unit for not meeting the size criteria, despite the fact the unit is over 47,000 acres. In its entirety, BLM offered the following rationale for excluding the unit: “The area is crossed by numerous seismic routes, improved two track routes and other routes and does not meet size.”</p> <p>Manual 6310 defines how the boundaries of wilderness inventory units should be drawn. The boundary should be “generally based on the presence of wilderness inventory roads” and, in light of the location of existing roads, the unit should be drawn to “exclude wilderness inventory roads and other substantially noticeable human-caused impacts.” However, the RSFO appears to have drawn an arbitrary boundary for the Cattail Draw Unit without attempting to exclude wilderness inventory roads or other “substantially noticeable human impacts.” These roads and human impacts were then cited as reasons that the area does not meet the size criterion. The inventory cannot be considered complete until the BLM complies with guidance for drawing unit boundaries as provided in</p>	Please see response to Comment # 14

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	<p>Manual 6310.</p> <p>Under Manual 6310, BLM must attempt to exclude Wilderness Inventory Roads and substantially noticeable human impacts from the boundaries of a wilderness inventory unit before it can properly assess whether or not the unit meets the size and naturalness criteria. If BLM had done so here, a contiguous area greater than 5,000 acres in size would almost certainly have been identified within the larger 47,444 acre unit defined by BLM.</p>	
20	<p><u>The Wilderness Society:</u></p> <p><u>B. In addition to not complying with FLPMA and Manual 6310, the BLM has yet to evaluate the RSO and RSFO's wilderness inventories and information gathered during those inventories through the land use planning process.</u></p> <p>As explained above, the BLM evaluate information gathered during wilderness inventories during the land use planning process. 43 U.S.C. § 1711(a); see also Ore. Natural Desert Ass'n v. BLM, 625 F.3d 1092, 1122 (9th Cir. 2010). Here, the BLM has not completed such a process for the RSO and RSFO's ongoing wilderness inventories. The RFO released an initial wilderness inventory for public review and comment in April 2014, while the Rock Springs Field Office posted an inventory online in December 2014. Additionally, both of those inventories are currently under consideration in ongoing planning processes – the RFO VRM amendment and the RSFO RMP revision. Thus, in neither case has the BLM had the opportunity to fully evaluate those inventories and develop management, including for oil and gas activity, based on comments and information provided by the public.</p> <p>In other field offices, including offices in Wyoming, the BLM regularly defers proposed lease parcels where, as here, updated information on wilderness characteristics has not been evaluated through a planning process. For example, the Bighorn Basin District Office, which is currently revising its RMP, deferred several parcels from Wyoming BLM's August 2013 lease sale because they overlapped with the wilderness inventory area. Similarly, in Colorado, the White River Field Office, which is preparing an oil and gas RMP amendment, has deferred leasing on over 250,000 acres that may possess wilderness characteristics. As explained by White River:</p> <p>The WRFO is currently working on a Resource Management Plan Amendment and associated EIS that</p>	<p>Please see response to Comment # 13</p>

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	<p>will address the potential impacts of significant increases in oil and gas development within the field office over the next 20 years. Because oil and gas development would potentially adversely impact lands with wilderness characteristics, decisions will be made on the management of the lands with wilderness characteristics units in the RMPA. According to BLM Manual 6320, considering wilderness characteristics in the land use planning process may result in several outcomes, including, but not limited to: (1) emphasizing other multiple uses as a priority over protecting wilderness characteristics; (2) emphasizing other multiple uses while applying management restrictions (conditions of use, mitigation measures) to reduce impacts to wilderness characteristics; and (3) the protection of wilderness characteristics as a priority over other multiple uses. Because the leasing of lands with wilderness characteristics is likely to result in indirect, adverse impacts to this resource value, it is recommended that until a decision is made on the management of these units, the areas where lands with wilderness characteristics units overlap with nominated parcels be deferred, as under Alternative 3, with the exception being the tracts from Alternative 2 listed in the above . . . which can be leased, and mitigated if needed, to result in not impacting lands with wilderness characteristics.</p> <p>As required by FLPMA and BLM Manuals 6310 and 6320, prior to offering parcels 9, 11, 16, 41, and 45 for lease, the BLM must consider TWS's comments on its recent wilderness inventories and make management decisions for those areas through a comprehensive NEPA review process that allows for robust public comment and participation.</p>	
21	<p><u>The Wilderness Society:</u></p> <p><u>II. Offering the Parcels in the Rawlins and Rock Springs Field Offices That May Possess Wilderness Characteristics Would Violate NEPA.</u></p> <p><u>A. The Draft EA Lacks A Reasonable Range of Alternatives.</u></p> <p>The BLM has not evaluated a reasonable range of alternatives for protecting the wilderness characteristics of parcels 9, 11, 16, 41 and 45. Under NEPA, the BLM must consider a broad range of alternatives to mitigate environmental impacts. 40 C.F.R. § 1502.14(a); see also Theodore Roosevelt Conservation P'ship v. Salazar, 661 F.3d 66, 72-73 (D.C. Cir. 2011) (requiring the BLM to</p>	<p>BLM inventories of parcels 9, 11, 16, 41 and 45 have determined that these parcels do not possess Lands with Wilderness Characteristics.</p>

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	<p>consider a reasonable range of alternatives for oil and gas activity); IM 2010-117 (requiring consideration of “alternatives to the proposed action that may address unresolved resource conflicts.”). Additionally, under current policies, the BLM must fully “consider” wilderness characteristics during planning actions and evaluate a range of measures to protect wilderness characteristics during the leasing process, including measures not contained in existing RMPs. See IM 2011-154 at Att. 2; IM 2010-117 at III. E., F.</p> <p>A “rule of reason” is used to determine if an adequate range of alternatives have been considered; this rule is governed by two guideposts: (1) the agency’s statutory mandates; and (2) the objectives for the project. New Mexico ex rel. Richardson, 565 F.3d at 708. Here, there is no doubt that BLM’s legal mandates under FLPMA and NEPA require it to fully consider the protection of wilderness values, and under IM 2010-117, the agency must treat the “protection of other important resources and values” as an equally important objective to leasing.</p> <p>Yet, in large part because the BLM is relying on wilderness inventories that are not finalized and do not yet adhere to the requirements of FLPMA and Manuals 6310 and 6320, the Draft EA lacks an adequate range of alternatives for 9, 11, 16, 41 and 45. Such alternatives include deferring or, at a minimum, offering those parcels with measures to protect wilderness characteristics, such as NSO stipulations. Because BLM has not considered those alternatives, it must defer the parcels from the lease sale or include measures in the Final EA that will fully protect their wilderness characteristics.</p> <p>B. The Proposed Lease Sale Will Improperly Limit the Range of Alternatives for Ongoing Planning Process in the Rawlins and Rock Springs Field Offices.</p> <p>The BLM is currently preparing an amendment to the Rawlins RMP to revise VRM classifications for the Rawlins Field Office, based on a current visual resources inventory. The inventory was necessitated because the Rawlins Field Office had not properly updated its inventory when preparing the Rawlins RMP. The Director granted protests regarding VRM Classifications and committed the Rawlins Field Office to completing an inventory and updating the classifications of visual resources.⁵ The updated inventory, completed in February 2011, found that much of the area around the Adobe Town WSA remains relatively pristine and undeveloped and therefore qualifies for VRM Class II</p>	

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	<p>management.</p> <p>The management objective for VRM Class II areas “is to retain the existing character of the landscape” and any “level of change to the characteristic landscape should be low.” BLM Manual H- 8410-1 at V.B.2. However, by intensively leasing these lands under their current VRM classification (Class III), the BLM is ignoring new information and foreclosing opportunities to manage these areas to protect their visual resources. By essentially locking in the current VRM Class III classification and predetermining the outcome of the VRM process, the BLM is in violation of NEPA, which provides that:</p> <p>(a) Until an agency issues a record of decision as provided in Sec. 1505.2 (except as provided in paragraph (c) of this section), no action concerning the proposal shall be taken which would:</p> <ol style="list-style-type: none"> 1. Have an adverse environmental impact; or 2. Limit the choice of reasonable alternatives. <p>....</p> <p>(c) While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:</p> <ol style="list-style-type: none"> (1) Is justified independently of the program; (2) Is itself accompanied by an adequate environmental impact statement; and (3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives. <p>40 C.F.R. § 1506.1 (emphases added). While the agency has discretion in determining where this standard applies, there is no question in this context that leasing parcels that may possess wilderness characteristics will limit the choice of alternatives and prejudice the ultimate decision in the ongoing VRM Amendment to the Rawlins RMP.</p> <p>III. Conclusion</p> <p>For the foregoing reasons, the BLM must defer parcels 9, 11, 16, 41 and 45 from the High Desert District Office’s November 2015 oil and gas lease sale. Furthermore, the BLM should not reconsider or offer those parcels for lease until the Rawlins and Rock Springs field offices have completed inventory and management decisions for lands</p>	

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	with wilderness characteristics through a public planning process.	
22	<p><u>COALITION OF LOCAL GOVERNMENTS:</u></p> <p>Thank you for the opportunity to submit these comments. The Coalition of Local Governments (Coalition), on behalf of its local government members, submits these comments on the November 2015 Lease Sale Environment Assessment (EA). The Coalition members include Lincoln, Sublette, Sweetwater, and Uinta Counties and the Little Snake River, Lincoln, Sublette, Sweetwater, and Uinta County Conservation Districts.</p> <p>The Coalition members have participated as cooperating agencies for the resource management plan (RMP) revisions for Kemmerer, Pinedale, and Rawlins land use plans, as well as for the Ashley and Bridger-Teton National Forests. In addition, the Coalition members are cooperators on the Rock Springs Resource Management Plan (RMP) revision and the sage grouse RMP revision, as well as several project level environmental impact statements (EIS) and environmental assessments (EA) across southwestern Wyoming.</p>	Thank you for your comments. No response needed.
23	<p><u>COALITION OF LOCAL GOVERNMENTS:</u></p> <p>1. Deferred Parcels for Greater Sage Grouse RMP Revision</p> <p>The Coalition again questions the merit of deferring an estimated 50% of the nominated lands based on the pending sage grouse RMP revision. EA at 2-3. As recognized in the EA, all of the parcels nominated are considered available for leasing in the RMPs. Id. at 1. The BLM sage grouse RMP revision is now almost six years past the original completion date of Sept. 2009. The draft environmental impact statement (DEIS) was released in 2013 and received significant complex comments. The local government cooperators have recently seen a preliminary FEIS and submitted comments, but there is no indication when the FEIS will be published.</p> <p>The State of Wyoming has been implementing a robust program of sage grouse protection, while continuing to develop data regarding lek locations and related habitat. This process began more than ten years ago with regional working groups. The state remains committed to its core area identification, which attempted to balance energy development and access with sage grouse conservation. This process resulted in the identification of core areas and</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’ which is internal guidance to staff for management of sage grouse under the BLM Wyoming Sensitive Species Policy while the RMP amendments/revisions are ongoing.</p> <p>Parcels are reviewed by BLM’s Reservoir Management Group for potential drainage issues prior to deferral for sage grouse. See Appendix C. Deferred parcels will remain deferred from leasing until conservation and management for sage grouse can be evaluated under the land use planning process, which is expected to be completed in the near future. Once this planning process is completed, this parcel could be re-nominated for future competitive leasing and leased with appropriate stipulations.</p> <p>Wyoming IM 2012-019 policy remains valid until it is superseded, or rescinded. Neither has happened. BLM must consider changes to an RMP when there is a change in management allocation (i.e. from an open with standard stipulations</p>

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	<p>detailed management guidelines. While CLG members have not agreed with every detail of the State’s plan, BLM cannot ignore the fact that there is already a robust conservation program in place that contradicts the assumed need to defer the leases for an RMP revision that is unlikely to be final and will certainly be the subject of a legal challenge. The BLM DEIS, moreover, adopted the State’s plan for the most part.</p> <p>The EA justifies deferral based on BLM WY IM 2012-019, which expired on Sept. 30, 2013. The EA did not document any risk of drainage, only that none has been determined. EA at 92. The IM also provided for a sage grouse stipulation rather than deferral. Based on this background, BLM should reconsider the deferral of these other parcels.</p> <p>Leasing subject to Wyoming BLM Instruction Memorandum, which incorporates the Wyoming executive order is not an irreversible and irretrievable commitment of resources. Deferral only interferes with completion of land positions necessary to drill. It also permits drainage when the deferred parcels are located near or adjacent to state and private lands.</p> <p>As indicated in earlier comments, the local governments depend on sales tax revenues from the energy industry. The high percent of federally-owned land within each affected county makes property taxes a relatively small source of revenues and federal in lieu of taxes payments (PILT) are an insufficient substitute. The energy industry is an equally important source of jobs and stability within the counties. Accordingly the deferral of these lease parcels for an indefinite period on these facts is unwarranted.</p>	<p>designation to controlled surface use or no surface occupancy designations) such as those required by IM2012-019.</p>
24	<p><u>COALITION OF LOCAL GOVERNMENTS:</u></p> <p>2. Reclamation Discussion Should Be Improved</p> <p>The EA assumes that BLM’s current reclamation policy is sufficient. EA at 80-81. CLG members’ observations is that this assumption is often at odds with reality. Especially in the high desert areas, reclamation does not succeed and BLM has done little to enforce effective long-term reclamation. Halogeton has fully infested disturbed areas in the field offices. In some cases, BLM is proposing livestock grazing reductions due to these infestations. This situation cannot be allowed to continue.</p> <p>CLG helped to lead the effort for a better reclamation policy for the Continent Divide Creston EIS. That direction should be adopted for all surface disturbing projects and</p>	<p>Thank you for your comments. Discussion of the CDC EIS is outside the scope of this document.</p> <p>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> <p>Further, all surface disturbing proposals must comply with WY BLM Instruction Memorandum 2012-032, WY BLM Reclamation Policy. We agree that reclamation and weed control are important issues. Onshore Order #1 requires a thorough site inspection by interdisciplinary team</p>

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	<p>BLM needs to commit to ensuring that reclamation succeeds. The premise that grading and seeding will lead to effective reclamation has proven false. The loss of habitat values and forage is significant.</p> <p>At a minimum, operators should be required to aggressively control non-native invasive species and further required to achieve reclamation fully. The EA discussion of reclamation is insufficient. There is no direction to control halogeton and no direction to coordinate with livestock operations, especially when the surface disturbance facilitates halogeton and other non-native or noxious weeds.</p>	<p>prior to a decision, to determine the specific characteristics of the site including soil and vegetation, and potential resource conflicts. These will be described in the site specific NEPA document should the parcel be sold and development proposed.</p>
25	<p><u>WildEarth Guardians:</u></p> <p>The following are the comments of WildEarth Guardians Climate and Energy Program on the Wyoming Bureau of Land Management (BLM) November 2015 Lease Sale Environmental Assessment (EA) for the High Desert District. For many years, the BLM has prioritized oil and gas leasing and development over other multiple uses such as wildlife, watersheds, and public recreation. It is time for the BLM to restore some balance among resource uses in Wyoming, and render extractive industries more compatible with maintaining healthy ecosystems and public enjoyment of the land, and less destructive of our climate. With this project, BLM fails to recognize that both already existing federal coal, oil, and gas leases and the proposed alternative will result in climate emissions that exceed a safe and livable global temperature rise. With every new set of leases, like the one proposed, BLM further busts the global carbon budget and increases the chances of catastrophic climate impacts.</p> <p>As detailed below, the problems with this proposed <u>lease</u> sale and its NEPA analysis are so pervasive that BLM should scrap the entire effort and adopt the no action alternative. In any case, it is clear that this NEPA analyses is so inadequate it cannot support project approval without supplemental analysis.</p>	<p>Thank you for your comments. No response needed.</p>
26	<p><u>WildEarth Guardians:</u></p> <p>I. The EA Makes Inconsistent Assumptions Regarding the Likelihood of Well Development and the Need to Assess Resulting Impacts</p> <p>In the EA, BLM acknowledges the high likelihood that the November lease sale will result in extensive well development. Such development undoubtedly will result in profound impacts to the human environment, both locally</p>	<p>Thank you for your comments. This leasing EA has adequately addressed the potential impacts of offering these lands at the November 2015 competitive lease sale. This EA tiers to the Rock Springs, Rawlins, Pinedale, and Kemmerer Resource Management Plans. This EA also incorporates by reference Appendix H and an Addendum.</p> <p>As discussed within the EA, since site specific</p>

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	<p>and globally. Nonetheless, BLM fails to fulfill its legal and moral obligations to the local community and to the nation to analyze those impacts and present them to the public and decision maker. This failure to analyze impacts at the earliest opportunity is a clear violation of NEPA and renders this EA ineffective.</p> <p>BLM explains that the legal test for the NEPA requirement to analyze impacts at the lease sale stage, as handed down by the Tenth Circuit, is reasonable foreseeability of site-specific impacts. EA at 4. BLM acknowledges that 88% of all parcels that have been offered for lease by BLM Wyoming over the last ten years were in fact leased. EA at 4. In the face of that fact alone, there is no credibility in asserting that no impacts from the November auction of dozens of lease parcels are reasonably foreseeable. To pretend that these 34 to 51 parcels, all of which have been nominated by industry, will all fail to sell, and therefore there are no impacts of this Federal action is ridiculous. Site-specific impacts from this lease sale are all but certain and certainly reasonably foreseeable. The best measure of whether impacts from the sale of any given parcel will occur is 88%. Something that occurs 88% of the time is reasonably foreseeable. Thus the sale of each and every parcel is reasonably foreseeable. As such, BLM has the duty to analyze likely impacts of the sale of all parcels offered.</p> <p>That BLM already understands this is made clear in the EA, but only in certain sections, where such admission might be advantageous to BLM's program to sell rights to our public lands to the oil and gas industry. For example, when assessing socioeconomic impacts from the proposed action, BLM has no problem making the assumption that all 50 parcels will sell, thus resulting in an economic benefit to various branches of government. EA at 63. BLM similarly assumes that actual spudding of wells, not merely sales of leases, will happen at rates equivalent to those experienced over the last ten years. EA at 91. BLM believes, at least when it comes to what it views as the benefits of this project, that the preferred alternative will "likely" lead to even greater economic benefits. EA at 64. Finally, BLM flatly states that the proposed alternative "would yield" far more economic benefit than the no action alternative. EA at 91.</p> <p>As shown below, however, when it comes to analyzing environmental impacts, BLM finds the sale of these parcels completely speculative and therefore assumes no impacts will occur from the proposed action. For example, BLM refuses to analyze and report climate emissions or impacts because it cannot do so "precisely" or with</p>	<p>drilling and locational information is not available, further analysis at the leasing stage of any site specific impacts cannot realistically be provided.</p> <p>As you note in your comments, 88% of parcels offered are sold; this does not equate to 88% of the parcels are actually developed. Available data indicates that only 43% of leased acreage is subsequently explored and put in to production; as such, it is far too speculative to presume where and how development may proceed if a parcel is sold.</p> <p>At the time of APD proposal, should the parcels be sold and development proposed, an analysis of these resources will be completed to ensure compliance with all federal laws and regulations, and conformance with the RMP. Stipulations attached to the lease sale were analyzed in the subject RMP and were provided as management actions in response to the potential Reasonably Foreseeable Development provided by the BLM's Reservoir Management Group located in Casper, Wyo. Site specific analysis beyond what is contained in the EA and the RMP by extension, is not possible absent a concrete development proposal which would provide specific locational data, and plans for drilling of the well and use of the surface estate for drilling and production operations. Through the application of the stipulations and subsequent NEPA analysis, BLM retains the discretion necessary to control the location, rate, and density of future development should the parcel be sold and issued. This comment provides no new information that the BLM has not adequately considered in this EA or in the land use plan.</p>

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	<p>“certainty.” EA at 71, 72. Thus, when it comes to touting the benefits of the proposed action, which are contingent on lease sales and development, it is acceptable to label those benefits as “likely.” When it comes to impacts that paint the proposed action in a negative light, those impacts are too speculative to analyze and therefore assumed not to exist.</p> <p>It is critically important though that BLM analyze site-specific impacts at the lease sale stage. BLM believes that “[o]nce a parcel is sold and the lease is issued, the lessee has the right to use as much of the leased lands as is reasonably necessary to explore and drill for all of the oil and gas within the lease boundaries, subject to the stipulations attached to the lease . . .” EA at 5. Thus, BLM believes that the lease sale stage is effectively its last opportunity for an analysis of impacts that lead to stipulations that limit the legal rights of a lease purchaser. Thus, if impacts are not assessed now, they cannot be effectively mitigated later.</p> <p>In a similar manner, the lease stage seems to be the last effective opportunity to analyze impacts that result from the connected actions of development across the lease area. BLM has long analyzed individual approvals for permits to drill without analyzing them as connected actions. So while BLM acknowledges that it has approved more than 12,000 producing oil and gas wells in the High Desert District, it has not and does it intend to analyze the cumulative impacts of these Federal actions.</p> <p>Profound local and global impacts from the proposed action have been ignored or presumed not to exist as a result of BLM’s inconsistent approach to identifying positive and negative impacts from the proposed action. Thus, BLM has put its finger on the scale and not properly fulfilled NEPA’s mandate to inform both the public and decision maker of significant impacts to the human environment. Therefore, the EA must be supplemented and all impacts analyzed before the proposed action can be approved.</p>	
27	<p><u>WildEarth Guardians:</u></p> <p>II. BLM Wyoming Has Not Reviewed Current Climate Science, Denies the Consensus Conclusions of Climate Scientists, and Fails to Analyze Climate Emissions or Impacts</p> <p>What passes for analysis of climate change presented in this EA is an embarrassment to the BLM and to the Department of the Interior as a whole, from the Secretary</p>	<p>Thank you for your comment. The error that you pointed out on page 69 in Section 4.2.1.3 has been corrected from 34 to 50 and is now consistent with the rest of the EA and FONSI. Thank you for bringing this typographical error to our attention. In response to your comment regarding the availability of the 2014 IPCC report, BLM has reviewed such and has updated the EA as appropriate.</p>

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	<p>of the Interior on down. It is absolutely unbelievable that BLM, even the Wyoming BLM, thinks that in 2015 it can expand federal leasing of public lands for oil and gas exploration and development without analyzing the impacts from resulting climate emissions. It is even more incredible that BLM does not yet admit to the basic conclusions of climate science, or even bother to review sources of climate science from the last seven years.</p> <p>To kick off its “analysis,” BLM implies that there is uncertainty as to whether greenhouse gases (GHGs) actually cause global warming. The BLM suggests only that they “may contribute.” EA at 27. BLM, without citation to any science and in direct contradiction to longsettled science, then suggests in the same breath that GHGs may equally contribute to “global cooling.” While it goes without saying outside BLM, there is no global cooling occurring. Global warming is “unequivocal” and human actions are “extremely likely” to have been the “dominant cause” of that warming. Ex. 1, Climate Change 2014 Synthesis Report Summary for Policy Makers, IPCC (2014) at 2, 4. This is not only the consensus scientific position on climate change globally, but also is accepted by the Federal government as a whole and the BLM. That certain elements of the BLM continue to assert otherwise seems to be on the verge of insubordination. It also should force the revision of the EA.</p> <p>BLM continues to argue its hopeless case of climate denial by claiming that GHGs are not the dominant cause of climate change, but rank among things like changes in the sun’s intensity, natural ocean circulation changes, and urbanization. EA at 48. BLM cites, inaccurately and without out any specificity, the 2007 IPCC report as support for this proposition. Not only is this not the conclusion of the 2007 IPCC process, it ignores the seven years of climate science summarized in the IPCC’s 2014 reports. BLM then asserts, without any citation, that any global warming might be instead the result of “changes to radioactive forces and reflectivity.” This reliance on outdated science and pure nonsense are further reasons requiring supplementation of the EA.</p> <p>The embarrassment only deepens as one reads on. Subsection 4.2.1.3 Greenhouse Gas Emissions and Climate Change, in the EA section that should be discussing the environmental impacts of the specific proposed action, does not such thing. The subsection begins by asserting that 34 parcels totaling some 36,000 acres are being analyzed for leasing. This contradicts the rest of the EA. It appears that the agency is forced to admit that this section, the one that should be analyzing this proposed action, has</p>	<p>The BLM currently has no formal policy which provides an accepted method for calculating emissions of Greenhouse Gases or policy that provides direction for incorporating these emissions into a meaningful environmental analysis. If and when this direction is received, BLM-WY will comply in full.</p> <p>As noted in your comments, the Council on Environmental Quality (CEQ), which oversees NEPA compliance for all federal agencies, has issued “Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions” (Feb. 18, 2010). Federal courts considering legal challenges to BLM decisions have found this draft guidance useful in interpreting NEPA’s requirements for considering climate change, although CEQ did not propose to apply the draft guidance to federal land and resource management actions. <i>WildEarth Guardians v. Jewell</i>, 738 F.3d 298, 309 n.5 (D.C. Cir. 2013) (West Antelope II). To date this draft guidance has not been formalized.</p> <p>Because anticipated production from a particular lease parcel is speculative, and the resulting CO2 emissions from eventual combustion of that production is even more speculative, a qualitative evaluation of climate change is appropriate.</p> <p>The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions. <i>WildEarth Guardians v. Jewell</i>, 738 F.3d 298, 309 n.5 (D.C. Cir. 2013) <i>WildEarth Guardians v. BLM</i>, , 8 F. Supp. 3d 17; 34 (D.D.C. 2014)</p> <p>Please see comment response #30 for a discussion on the Social Cost of Carbon (SCC).</p>

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	<p>merely been lifted from a prior and completely unrelated EA. This would explain why the wrong number of parcels and the wrong number of acres have been cited. It would explain why only outdated science is cited. And it would explain why no site-specific analysis whatsoever has been included. There is no estimate of emissions from the proposed project. There is no analysis of the social costs of carbon that will result to society from this project.</p> <p>It baffles an honest mind to believe that someone at BLM thought this would suffice for site-specific analysis. It is equally disturbing to think either that this was reviewed and allowed to stand by the district manager, or perhaps worse, that no one reviewed this document before it climate change, SCC, emissions, was released to the public. Not only is this EA inadequate to the legal mandates of NEPA, it also makes clear that the Wyoming BLM is either uninterested or incapable of analyzing climate impacts from the fossil fuels project approvals that seem to be its principle “business.”</p> <p>Science and BLM policy make clear that the impacts from this project must be assessed and presented to the public and the decision maker. Such impacts, at minimum, include an estimate of emissions and an estimate of the social cost of carbon.</p> <p>On December 18, 2014, the Council on Environmental Quality (CEQ) released a Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts.</p> <p>This guidance explains that agencies should consider both the potential effects of a proposed action on climate change, as indicated by its estimated greenhouse gas emissions, and the implications of climate change for the environmental effects of a proposed action. The guidance also emphasizes that agency analyses should be commensurate with projected greenhouse gas emissions and climate impacts, and should employ appropriate quantitative or qualitative analytical methods to ensure useful information is available to inform the public and the decision-making process in distinguishing between alternatives and mitigations. It recommends that agencies consider 25,000 metric tons of carbon dioxide equivalent emissions on an annual basis as a reference point below which a quantitative analysis of greenhouse gas is not recommended unless it is easily accomplished based on available tools and data.</p> <p>Ex. 2, https://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/ghg-guidance.</p>	

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	<p>The EA fails to meet every one of these standards. The EA did not consider the potential effects of the proposed action on climate change. The EA wholly ignores the implications of climate change for the environmental effects of the proposed action. The EA fails to provide quantitative or qualitative analytical methods or analysis to ensure useful information is available to inform the public or the decision-maker in distinguishing between alternatives and wholly ignores mitigations. This project will certainly release more than 25,000 metric tons of carbon dioxide equivalent emissions, but quantitative analysis of the impacts of those emissions is completely absent.</p> <p>This level of “analysis” does not differ much from BLM Utah’s Environmental Assessments for the May 2015 Oil and Gas Lease Sale in the Cedar City and Richfield Field Offices. See Ex. 3, https://www.blm.gov/ut/enbb/files/2015_02_06_CCFO_FINAL_EA_May_2015_O&G_Lease_Sale.pdf at 62-62 and Ex. 4, https://www.blm.gov/ut/enbb/files/RFO.EA.Final.2.13.2015.pdf at 68. These effective expressions of climate denial by BLM Utah brought a sharp rebuke from the Washington office in a memo earlier this year that has not been formally released to the public but has been acknowledged by BLM and is attached. Ex. 5. That memo instructs offices to use quantitative estimates of GHG emissions “as a reasonable proxy for the effects of climate change” in NEPA analyses. That instruction was ignored here by the exclusion of such analysis from the Environmental Impacts section of the EA.</p> <p>Thus BLM Wyoming has ignored its own Washington office, ignored the White House’s Council on Environmental Quality, ignored global scientific consensus, ignored the plain meaning of NEPA, and ignored common sense. The EA must be revised to include an analysis of climate change and project effects on climate change in the Affected Environment and Environmental Impacts sections of the EA using the best available science and following agency and government-wide guidance.</p>	
28	<p><u>WildEarth Guardians:</u></p> <p>III. The EA Fails to Estimate Project Emissions</p> <p>a) The EA does not estimate climate emissions in the Environmental Impacts section of the EA. Nonetheless it is clear that the CEQ threshold</p>	<p>a) See response to comment #27 b) See response to comment #27 c) The November 2015 Oil and Gas Lease Sale is not a regulatory or rule-making action but rather a contract action through the offering, sale, and issuance of a Federal lease. The act of leasing land for oil and gas development in itself does not emit</p>

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	<p>of 25,000 tons per year of carbon dioxide equivalent per year will be produced during many years of this projects existence. If only 50% of 50 parcels sold and only a single well were drilled on each parcel, it is clear that many times more than 25,000 tons per year of carbon dioxide equivalent would be produced.</p> <p>b) It is also critical to point out that the BLM’s failure to estimate greenhouse gas emissions is completely inconsistent with the agency’s actions elsewhere in the western U.S. Other Field Offices, including, but not limited to, the Four Rivers Field Office in Idaho, the Billings Field Office in Montana, the Miles City Field Office in Montana, and Field Offices in Colorado have estimated reasonably foreseeable greenhouse gas emissions associated with the development of oil and gas leases. Further, in many cases, the BLM has even quantified costs of these emissions using the federal government’s social cost of carbon protocol.</p> <p>In the Four Rivers Field Office of Idaho, the BLM utilized an emission calculator developed by air quality specialists at the BLM National Operations Center in Denver to estimate likely greenhouse gases that would result from leasing five parcels. Ex. 6, BLM, “Little Willow Creek Protective Oil and Gas Leasing,” EA No. DOI-BLM-ID-B010-2014-0036-EA (February 10, 2015) at 41, available online at https://www.blm.gov/epl-frontoffice/projects/nepa/39064/55133/59825/DOI-BLM-ID-B010-2014-0036-EA_UPDATED_02272015.pdf. Relying on a report prepared in 2014 for the BLM by Kleinfelder Inc., which estimated oil and gas well emissions throughout the western United States, the agency estimated that 2,893.7 tons of carbon dioxide equivalent (“CO₂e”) would be released per well. Id. at 35.3 Based on the analyzed alternatives, which projected between 5 and 25 new wells, the BLM estimated that total greenhouse gas emissions would be between 14,468.5 tons and 72,342.5 tons annually. Id.</p> <p>In both the Billings and Miles City Field Offices of Montana, the BLM also estimated likely greenhouse gas emissions from development of oil and gas leases. To do so, the agency first calculated annual greenhouse gas emissions from oil and gas activity</p>	<p>any volatile organic carbons, or greenhouse gasses. It is BLM’s determination that in this particular instance, calculating the SCC from CO₂ emissions from the combustion of an unknown quantity of produced oil and gas would be highly speculative but likely would be negligible in relation to the impacts from oil and gas burned on a nationwide or global basis. NEPA does not require a benefit-cost analysis, although CEQ NEPA regulations allow agencies to use it in NEPA analyses in certain circumstances (40 CFR § 1502.23).</p> <p>BLM’s socioeconomic impact analysis acknowledges the monies received from leasing the parcels but because of the speculative nature of development does not attempt to quantify costs and benefits associated with drilling, possible production or eventual combustion of fluid minerals from the lease parcel. In contrast, SCC provides one element of a benefit-cost analysis: the monetization of all meaningful economic benefits and costs. Monetizing only certain effects on social welfare can lead to an unbalanced assessment. Reporting the SCC in isolation could be misleading. As a federal District Court in Oregon recently held in <i>League of Wilderness Defenders/Blue Mts. Biodiversity Project v. Connaughton</i>, 2014 U.S. Dist. LEXIS 170072 (D. Or. Dec. 9, 2014), a SCC analyses is not required to comply with NEPA where there is no clear way to quantify costs and benefits. Because anticipated production from a particular lease parcel is speculative, and the resulting CO₂ emissions from eventual combustion of that production is even more speculative, a qualitative evaluation of climate change is appropriate.</p> <p>The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions. <i>WildEarth Guardians v. Jewell</i>, 738 F.3d 298, 309 n.5 (D.C. Cir. 2013) <i>WildEarth Guardians v. BLM</i>, , 8 F. Supp. 3d 17; 34 (D.D.C. 2014) The qualitative analysis provided by this leasing EA is consistent with existing BLM direction.</p>

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	<p>within the Field Offices. See Ex. 8, BLM, “Environmental Assessment for October 21, 2014 Oil and Gas Lease Sale,” DOI-BLM-MT-C020-2014-0091-EA (May 19, 2014) at 51, available online at http://www.blm.gov/style/medialib/blm/mt/blm_programs/energy/oil_and_gas/leasing/lease_sales/2014/oct__21_2014/july23posting.Par.88257.File.dat/BiFO%20Oct%202014%20EA.pdf and Ex. 9, BLM, “Environmental Assessment for October 21, 2014 Oil and Gas lease Sale,” DOIBLM-MT-0010-2014-0011-EA (May 19, 2014) at 47, available online at http://www.blm.gov/style/medialib/blm/mt/blm_programs/energy/oil_and_gas/leasing/lease_sales/2014/oct__21_2014/july23posting.Par.25990.File.dat/MCFO%20EA%20October%202014%20Sale_Post%20with%20Sale%20(1).pdf. The BLM then calculated total greenhouse gases by assuming that the percentage of acres to be leased within the federal mineral estate of the Field Offices would equal the percentage of emissions. Id.</p> <p>c) Although we have concerns over the validity of this approach to estimate emissions (an “acre-based” estimate of emissions is akin to estimating automobile emissions by including junked cars, which has the misleading effect of reducing the overall “per car” emissions), nevertheless it demonstrates that the BLM has the ability to estimate reasonably foreseeable greenhouse gas emissions associated with oil and gas leasing and that such estimates are valuable for ensuring a well-informed decision.</p> <p>The BLM must revise its EA with estimates of emissions from construction and operation of wells, including both emissions produced onsite and those created from the burning of the oil and gas likely to be produced. Both carbon dioxide and methane emissions must be included. These all must be included in a revision to the EA before project approval can proceed.</p>	
29	<p><u>WildEarth Guardians:</u></p> <p>IV. The Social Cost of Carbon Has Been Ignored</p> <p>The high costs to society from the leasing and subsequent burning of public lands fossil fuels must be properly analyzed and presented to the public and agency decision makers.</p>	<p>Comment acknowledged. The preparation of this leasing EA was done in compliance with all Federal rules, regulations, and laws.</p>

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	<p>Historically, BLM has ignored the costs of fossil fuel leasing on public lands, especially the costs to society that result from global warming. Proper consideration of these social costs of carbon is simply good governance and good stewardship of public resources, and such consideration is legally required.</p>	
30	<p><u>WildEarth Guardians:</u></p> <p>Global warming is responsible for extreme costs to society already, and it will only get worse in the future.</p> <p>As discussed above, a recent consensus report, joined by more 190 countries, makes the basic science on global warming crystal clear. Global warming is unequivocal. The U.S. government’s own more recent report concludes that global warming is now affecting our country in far-reaching ways. Ex. 11, National Climate Assessment 2014 – Overview, at http://nca2014.globalchange.gov/highlights/overview/overview (National Climate Assessment). Climate pollution has warmed the U.S. almost 2°F, mostly since 1970, with another 2°F to 4°F expected in the next few decades. Id. Much greater warming in future decades is also possible, possibly up to an increase of 10°F above current temperatures by the end of the century. Id.</p> <p>These are not the estimates of “environmentalists.” This is the scientific consensus accepted both in the U.S. and around the world.</p> <p>The burning of coal, oil, and gas is the principle source of the largest contributor to global warming, carbon dioxide. Ex. 11 at 5. At this time, approximately 21% of all U.S. greenhouse gases come from fossil fuels produced in the U.S. from public lands. Ex. 11, Greenhouse Gas Emissions from Fossil Energy Extracted from Federal Lands and Waters: An Update, Stratus Consulting (Dec. 23, 2014) at 13. Fossil fuels extracted from public lands release more than 1.34 billion metric tons of carbon dioxide equivalent per year. Id. at 9. That is the equivalent of more than 283 million passenger cars’ annual climate pollution, just from producing and burning fossil fuels from our public lands alone. Id.</p> <p>BLM manages federal mineral rights, including the leasing and approval of extraction of public lands fossil fuels, on all federal lands. Therefore, BLM decision makers play a critical role in determining how much more climate pollution the U.S. will emit to the atmosphere, the extent</p>	<p>Executive Order 13514 required Federal agencies to submit a 2020 greenhouse gas pollution reduction target within 90 days, and to increase energy efficiency, reduce fleet petroleum consumption, conserve water, reduce waste, support sustainable communities, and leverage Federal purchasing power to promote environmentally-responsible products and technologies. This EO does not apply to land management decisions. For a full copy of the EO, see http://www.whitehouse.gov/administration/eop/ceq/sustainability</p> <p>The Executive Order requires agencies to meet a number of energy, water, and waste reduction targets, including:</p> <ul style="list-style-type: none"> •30% reduction in vehicle fleet petroleum use by 2020; •26% improvement in water efficiency by 2020; •50% recycling and waste diversion by 2015; •95% of all applicable contracts will meet sustainability requirements; •Implementation of the 2030 net-zero-energy building requirement; •Implementation of the stormwater provisions of the Energy Independence and Security Act of 2007, section 438, and; •Development of guidance for sustainable Federal building locations in alignment with the Livability Principles put forward by the Department of Housing and Urban Development, the Department of Transportation, and the Environmental Protection Agency. <p>None of the requirements of these Executive Orders have bearing on land management</p>

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	<p>that that pollution will exacerbate global warming, and the extent that society and future generations will have to bear the myriad related social costs of those decisions.</p> <p>Global warming is exacting costs on society in numerous ways. Agricultural productivity, including crops, livestock, and fisheries have been negatively impacted by global warming. See National Climate Assessment – Overview. This has resulted from extreme weather events, changes in temperature and precipitation, and increasing pressure from pests and pathogens. Id. Both water quality and water quantity are being affected by global warming. Id. The degradation has resulted from changes in snowpack, extreme weather events, coastal flooding affecting aquifers, and from changes in temperature and precipitation. Id. Heat-related deaths and illnesses have grown and are growing. Id. Impacts to forest resources from increased forest fires and the resulting impacts to air quality put additional costs on society. Id. A wide variety of critical ecosystem functions are degraded by global warming, including habitat for fish and wildlife, drinking water storage, soils, and coastal barriers. Id. Carbon dioxide pollution is also responsible for increasing ocean acidification. This list represents only a subset of the social costs of carbon pollution from burning fossil fuels extracted from our public lands. Nonetheless, “[l]ower emissions of heat-trapping gases and particles mean less future warming and less-severe impacts; higher emissions mean more warming and more severe impacts.” Id.</p>	<p>decisions which is what this EA is evaluating through implementation of the availability of lands for oil and gas leasing and development designation in the RMP and triggered by receipt of an Expression of Interest in accordance with 43 CFR 3100.</p> <p>The Council on Environmental Quality (CEQ) regulations at 40 CFR 1502.23, state (in part), “...for the purposes of complying with the Act, the weighing of the merits and drawbacks of various alternatives need not be displayed in a monetary cost-benefit analysis and should not be when there are important qualitative considerations.”</p> <p>The Social Cost of Carbon (SCC) protocol was developed by the Office of Management and Budget using an interagency working group in response to Executive Order 12866, which requires federal agencies, to the extent permitted by law, “to assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.” SCC estimates the monetary cost incurred by the emission of one additional metric ton of carbon dioxide (CO₂), and is not applicable to non-CO₂ GHG emissions, such as methane. Estimating SCC is challenging because it is intended to model effects on the welfare of future generations at a global scale caused by additional carbon emissions occurring in the present and does not account for the complexity of multiple stressors and indicators. The SCC was developed to support agencies in responding to EO 13514, not for use in making land management decisions.</p> <p>The November 2015 Oil and Gas Lease Sale is not a rulemaking action but rather a contract action through the offering, sale, and issuance of a Federal lease. The act of leasing land for oil and gas development in itself does not emit any carbon or greenhouse gasses. It is BLM’s determination that in this particular instance, calculating the SCC from CO₂ emissions from the combustion of an unknown quantity of produced oil and gas would be highly speculative but likely would be negligible in relation to the impacts from oil and gas burned on a nationwide or global basis. NEPA does not require a benefit-cost analysis, although</p>

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		<p>CEQ NEPA regulations allow agencies to use it in NEPA analyses in certain circumstances (40 CFR § 1502.23). BLM’s socioeconomic impact analysis acknowledges the monies received from leasing the parcels but because of the speculative nature of development does not attempt to quantify costs and benefits associated with drilling, possible production or eventual combustion of fluid minerals from the lease parcel. In contrast, SCC provides one element of a benefit-cost analysis: the monetization of all meaningful economic benefits and costs. Monetizing only certain effects on social welfare can lead to an unbalanced assessment. Reporting the SCC in isolation could be misleading. As a federal District Court in Oregon recently held in <i>League of Wilderness Defenders/Blue Mts. Biodiversity Project v. Connaughton</i>, 2014 U.S. Dist. LEXIS 170072 (D. Or. Dec. 9, 2014), a SCC analyses is not required to comply with NEPA where there is no clear way to quantify costs and benefits. Because anticipated production from a particular lease parcel is speculative, and the resulting CO2 emissions from eventual combustion of that production is even more speculative, a qualitative evaluation of climate change is appropriate.</p> <p>The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions. <i>WildEarth Guardians v. Jewell</i>, 738 F.3d 298, 309 n.5 (D.C. Cir. 2013) <i>WildEarth Guardians v. BLM</i>, , 8 F. Supp. 3d 17; 34 (D.D.C. 2014)</p>
31	<p><u>WildEarth Guardians:</u></p> <p>BLM decision makers must consider the social cost of carbon from all proposed land management projects.</p> <p>The requirement to analyze the social cost of carbon is supported by the general requirements of the National Environmental Policy Act (NEPA), specifically supported in federal case law, and by a 2009 Executive Order.</p> <p>NEPA requires agencies to take a “hard look” at the consequences of proposed agency actions. 42 U.S.C. § 4321 et seq.; <i>Morris v. U.S. Nuclear Regulatory Commission</i>, 598 F.3d 677, 681 (10th Cir. 2010).</p>	<p>Please see response to comment #30</p>

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	<p>Consequences that must be considered include direct, indirect, and cumulative consequences. 40 C.F.R. §§ 1502.16, 1508.7, 1508.8. A cumulative impact is the “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” 40 C.F.R. § 1508.7. Analysis of site-specific impacts must take place at the lease stage and cannot merely be deferred until after receiving applications to drill. See <i>New Mexico ex rel. Richardson v. Bureau of Land Management</i>, 565 F.3d 683, 717-18 (10th Cir. 2009); <i>Conner v. Burford</i>, 848 F.2d 1441 (9th Cir.1988); <i>Bob Marshall Alliance v. Hodel</i>, 852 F.2d 1223, 1227 (9th Cir.1988). Any NEPA analysis of a fossil fuel development project that fails to use the government-wide protocol for assessing the costs to society of carbon emissions from the proposed action has failed to take the legally required “hard look.”</p> <p>Courts have ordered agencies to assess the social cost of carbon pollution, even before a federal protocol for such analysis was adopted. In 2008, the Ninth Circuit Court of Appeals ordered the National Highway Traffic Safety Administration (NHTSA) to include a monetized benefit for carbon emissions reductions in an EA prepared under NEPA. <i>Center for Biological Diversity v. National Highway Traffic Safety Administration</i>, 538 F.3d 1172, 1203 (9th Cir. 2008). NHSTA had proposed a rule setting corporate average fuel economy standards for light trucks. A number of states and public interest groups challenged the rule for, among other things, failing to monetize the benefits that would accrue from a decision that led to lower carbon dioxide emissions. NHTSA’s EA had monetized the employment and sales impacts of the proposed action. <i>Id.</i> at 1199. The agency argued, however, that valuing the costs of carbon emissions was too uncertain. <i>Id.</i> at 1200. The court found this argument to be arbitrary and capricious. <i>Id.</i> The court noted that while estimates of the value of carbon emissions reductions occupied a wide range of values, the correct value was certainly not zero. <i>Id.</i> It further noted that other benefits were monetized by the agency although also uncertain. <i>Id.</i> at 1202.</p> <p>More recently, a federal court has done likewise for a proposed coal lease modification. That court began its analysis by recognizing that a monetary cost-benefit analysis is not universally required by NEPA. <i>High Country Conservation Advocates v. U.S. Forest Service</i>,</p>	

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	<p>2014 WL 2922751 (D. Colo 2014), Slip Op. at 3, citing 40 C.F.R. § 1502.23. However, when an agency prepares a cost-benefit analysis, as here, “it cannot be misleading.” Id. at 3 (citations omitted). In this case, the NEPA analysis prepared by BLM, like the case above, included a quantification of benefits of the project. The quantification of the social cost of carbon, although included in earlier analyses, was omitted in the final NEPA analysis. Id. at 19. Those federal agencies then relied on the stated benefits of the project to justify project approval. This, the court explained, was arbitrary and capricious. Id. Such approval was based on a NEPA analysis with misleading economic assumptions, an approach long disallowed by courts throughout the country. Id. at 19-20.</p> <p>This understanding of the important role the social cost of carbon can play in environmental analyses is reflected in the Council on Environmental Quality’s recent draft “Guidance on Considering Climate Change in NEPA Reviews and Conducting Programmatic NEPA Reviews,” discussed above.</p> <p>When an agency determines it appropriate to monetize costs and benefits, then, although developed specifically for regulatory impact analyses, the Federal social cost of carbon, which multiple Federal agencies have developed and used to assess the costs and benefits of alternatives in rulemakings, offers a harmonized, interagency metric that can provide decisionmakers and the public with some context for meaningful NEPA review. When using the Federal social cost of carbon, the agency should disclose the fact that these estimates vary over time, are associated with different discount rates and risks, and are intended to be updated as scientific and economic understanding improves.</p> <p>Ex. 2 at 16. The EA in question here analyzed site-specific monetized benefits of the proposed action, but, contrary to this guidance, ignored the social cost of carbon.</p> <p>In addition to NEPA, case law, and CEQ guidance, Executive Order 13514 makes the “reduction of greenhouse gas emissions a priority for federal agencies.” E.O. 13514, Preamble. The reduction of emissions includes emissions from both direct and indirect activities. Section 1. This Executive Order requires that, “[i]n order to create a clean energy economy that will increase our Nation’s prosperity, promote energy security, protect the interests of taxpayers, and safeguard the health of our environment,” it is the “policy of the United States” that agencies “shall prioritize actions based on a full accounting of both economic and social benefits and costs.” Section 1. When</p>	

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	<p>quantifying greenhouse gas emissions, the Department of the Interior is specifically instructed to “accurately and consistently quantify and account for greenhouse gas emissions” from sources controlled by the Department, including “emissions of greenhouse gases resulting from Federal land management practices.” Section 9(a). The results of quantifying emissions from proposed federal land management actions, of fully accounting for all economic and social costs and benefits of those proposed actions, and the resulting prioritization of actions based on this quantification and accounting must be fully disclosed on publically available websites. Section 1.</p> <p>NEPA’s hard-look doctrine and related court cases make clear that the social cost of carbon must be analyzed whenever an agency is analyzing other economic costs and benefits of a proposed public lands fossil fuel project. E.O. 13514 goes further however and requires the Department of the Interior to analyze the social cost of carbon for all federal land management decisions.</p>	
32	<p><u>WildEarth Guardians:</u></p> <p>The social cost of carbon will be significant whenever fossil fuel leasing, or mining, or drilling is proposed.</p> <p>According to the U.S. Environmental Protection Agency (“EPA”), the social cost of carbon is “an estimate of the economic damages associated with a small increase” in emissions. Ex. 12, The Social Cost of Carbon, U.S. Environmental Protection Agency at http://www.epa.gov/climatechange/EPAactivities/economics/scc.html. “This dollar figure also represents the value of damages avoided for a small emission reduction.” Id. Thus, it would be incorrect to assert that the social cost of carbon cannot be calculated for a project that represents a tiny fraction of global or even a tiny fraction of U.S. emissions. Estimates of the social cost of carbon are designed to do exactly that. In fact, the social cost of carbon is generally expressed in terms of the costs tolled by emitting or the benefits realized by avoiding a single ton of carbon dioxide emissions.</p> <p>In 2009, an Interagency Working Group was formed to develop the protocol and issued final estimates of carbon costs in 2010. See Interagency Working Group on Social Cost of Carbon, “Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866” (Feb. 2010), available online at https://www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbonfor-RIA.pdf.</p>	Please see response to comments 28 and 30.

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	<p>These estimates were then revised in 2013 by the Interagency Working Group, which at the time consisted of 13 agencies, including the Department of Agriculture. See Ex. 13, Interagency Working Group on Social Cost of Carbon, “Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866” (May 2013), available online at https://www.whitehouse.gov/sites/default/files/omb/inforeg/social_cost_of_carbon_for_ria_2013_update.pdf.</p> <p>Depending on the discount rate and the year during which the carbon emissions are produced, the Interagency Working Group estimates the cost of carbon emissions, and therefore the benefits of reducing carbon emissions, to range from \$11 to \$220 per metric ton of carbon dioxide. See Chart Below. In July 2014, the U.S. Government Accountability Office (“GAO”) confirmed that the Interagency Working Group’s estimates were based on sound procedures and methodology. See Ex. 14, GAO, “Regulatory Impact Analysis, Development of Social Cost of Carbon Estimates,” GAO-14-663 (July 2014), available online at http://www.gao.gov/assets/670/665016.pdf</p> <p>However, it is very likely that the social cost of carbon protocol underestimates the true damages exacted on society by carbon pollution. Id. In particular, damages related to social and political conflicts, weather variability, extreme weather, and declining growth rates are either ignored or underestimated. Ex. 15, Omitted Damages: What’s Missing from the Social Cost of Carbon, Peter Howard, the Cost of Carbon Project (March 13, 2014). In fact, more recent studies have reported significantly higher carbon costs. For instance, a report published this year found that current estimates for the social cost of carbon should be increased six times for a mid-range value of \$220 per ton. Ex. 16, Moore, C.F. and B.D. Delvane, “Temperature impacts on economic growth warrant stringent mitigation policy,” Nature Climate Change (January 12, 2015) at 2. Thus, any application of the current social cost of carbon protocol is very likely a significant underestimate of the true cost of carbon pollution.</p> <p>Although often utilized in the context of agency rulemakings, the protocol has been recommended for use and has been used in project-level decisions. For instance, the EPA recommended that an EIS prepared by the U.S. Department of State for the proposed Keystone XL oil pipeline include “an estimate of the ‘social cost of carbon’</p>	

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	<p>associated with potential increases of GHG emissions.” Ex. 17, EPA, Comments on Supplemental Draft EIS for the Keystone XL Oil Pipeline (June 6, 2011). More importantly, the BLM has also utilized the social cost of carbon protocol in the context of oil and gas leasing. In recent Environmental Assessments for oil and gas leasing in Montana, the agency estimated “the annual SCC [social cost of carbon] associated with potential development on lease sale parcels.” Ex. 9 at 76. In conducting its analysis, the BLM used a “3 percent average discount rate and year 2020 values,” presuming social costs of carbon to be \$46 per metric ton. Id. Based on its estimate of greenhouse gas emissions, the agency estimated total carbon costs to be “\$38,499 (in 2011 dollars).” Id. In Idaho, the BLM also utilized the social cost of carbon protocol to analyze and assess the costs of oil and gas leasing. Using a 3% average discount rate and year 2020 values, the agency estimated the cost of carbon to be \$51 per ton of annual CO₂e increase. See Ex. 6 at 81. Based on this estimate, the agency estimated that the total carbon cost of developing 25 wells on five lease parcels to be \$3,689,442 annually. Id. at 83.</p>	
33	<p><u>WildEarth Guardians:</u></p> <p>BLM’s EA for the November 2015 Oil and Gas Lease Parcel Sale violates NEPA and E.O. 13514</p> <p>BLM fails to draw the necessary connection between this project and increased climate impacts and costs. BLM improperly declines to assess the impacts of climate change, promising to assess them at some unknown time in the future. This violates NEPA’s hard look doctrine. Court’s have made clear that the leasing stage is an appropriate time to assess impacts that will not be mitigated by lease stipulations, as carbon emissions surely will not.</p> <p>In addition, the project fails to take a hard look at climate impacts to society as monetized in the social cost of carbon protocol. The costs to society of releasing hundreds of thousands of metric tons of carbon-dioxide equivalent is completely ignored. Properly assessed project emissions across several decades could exceed hundreds of thousands of tons of CO₂e. Thus, application of the Social Cost of Carbon Protocol would arrive at project costs to society up to or exceeding tens of millions of dollars. The economic benefits of this project could pale in comparison to its costs. The EA must be revised to analyze the social cost of carbon.</p> <p>This project is one small piece resulting in tremendous</p>	Please see response to comments 28 and 30.

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	<p>cumulative impacts across the Department of the Interior fossil fuel leasing programs. Fossil fuels development on public lands and coastal waters results in more than 1.3 billion tons of carbon dioxide emissions per year. Using 2015 social cost of carbon values, the costs to society of the federal fossil fuel leasing program is between \$14.3 and \$141.7 billion per year. This same level of emissions in 20 years would incur much higher costs, depending on the growth of the economy and the intensity of global warming impacts at that time. These costs, of course, do not include costs from air pollution, do not include lost opportunity costs from lost recreation, or costs from direct degradation of ecosystem services. Recall also, that it is very likely that these numbers even represent an underestimate of the true costs to society from global warming.</p> <p>These numbers, while shocking, do no more than reiterate what scientists have been telling us for years: extraction of fossil fuels are costing our society much more than they are providing in benefits. Of course numbers of such an alarming magnitude do not result from the approval of any single project. Instead, they represent the incessant accumulation of costs that result from BLM approving project after project while refusing to acknowledge that those projects have unspoken costs to society, both individually and in the aggregate, that will continue to plague our country for generations. BLM must address the social costs of carbon that are likely to result from this project.</p>	
34	<p><u>WildEarth Guardians:</u></p> <p>V. Hydraulic Fracturing</p> <p>The EA fails to consider the impacts of hydraulically fracturing oil and gas wells. There is incomplete analysis of water usage, seismic activity, health impacts, or any of the other known impacts of hydraulic fracturing. It is arbitrary and capricious of BLM to neglect this highly controversial and impactful practice in its environmental analysis.</p> <p>At a minimum, “the agency’s [Environmental Assessments] must give a realistic evaluation of the total impacts and cannot isolate a proposed project, viewing it in a vacuum.” Grand Canyon Trust v. F.A.A., 290 F.3d 339, 342 (D.C. Cir. 2002). More specifically, “an environmental impact statement must analyze not only the direct impacts of a proposed action, but also the indirect and cumulative impacts.” Utahns for Better Transp. v. U.S. Dep’t of Transp., 305 F.3d 1152, 1172 (10th Cir. 2002)</p>	<p>Hydraulic Fracturing is a specific well completion method that will be analyzed at the appropriate APD or project stage with the necessary NEPA document. The impacts to resources affected will also be analyzed under that site specific NEPA document. See page 4, Section 1.3 of the lease sale EA, for a general discussion of development in relations to leasing. Also see Sections 3.2.9 and 4.2.9 for a discussion of water resources. As well, incorporated by reference in to the lease sale EA is Appendix E which contains a white paper on Hydraulic Fracturing.</p> <p>Since development cannot be reasonably determined at the leasing stage, any site specific impacts cannot realistically be analyzed at this time. At the time of APD proposal, should the parcels be sold and development proposed, an analysis of these resources will be completed.</p>

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	<p>(citing Custer County Action Assoc. v. Garvey, 256 F.3d 1024, 1035 (10th Cir. 2001)) (internal quotation omitted); see also 40 C.F.R. § 1509.25(a)(2) (2009) (scope of EIS is influenced by cumulative actions and impact); Greenpeace v. Nat'l Marine Fisheries Serv., 80 F. Supp. 2d 1137, 1149 (W.D. Wash. 2000) (management plans were unlawful for failing to consider cumulative impacts on species). Conner v. Burford holds that the inability at the lease sale stage to fully ascertain effects of development “is not a justification for failing to estimate what those effects might be.” Conner v. Burford, 848 F.2d 1441 (9th Cir. 1988); see also Methow Valley Citizens Council, 490 U.S. 332 (1989).</p> <p>Cumulative impact is defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” 40 C.F.R. § 1508.7 (2009). The Tenth Circuit recently noted that the BLM’s own Handbook for Fluid Mineral Resources recognizes that “BLM has a statutory responsibility under NEPA to analyze and document the direct, indirect and cumulative impacts of past, present and reasonably foreseeable future actions resulting from Federally authorized fluid minerals activities.” Pennaco Energy Inc., v. U.S. Dep’t of Interior, 377 F.3d 1147, 1160 (10th Cir. 2004).</p> <p>BLM must conduct a thorough analysis of hydraulic fracturing to comply with its NEPA responsibilities. The analysis of hydraulic fracturing should require an Environmental Impact Statement due to its significant environmental.</p>	
35	<p><u>WildEarth Guardians:</u></p> <p>VI. The BLM Must Ensure Conformity With the Clean Air Act</p> <p>Although some of the proposed lease parcels are apparently located in Upper Green River Basin ozone nonattainment area, the BLM asserts it is not obliged to comply with the Clean Air Act’s requirement that federal actions conform to the applicable state implementation plan (“SIP”). See 42 U.S.C. § 7506. Its position, however, is based on erroneous interpretations of the Clean Air Act and its underlying regulations, and indicates that the BLM’s proposed leasing will continue to fuel dangerous levels of ozone pollution in the region, jeopardizing public health.</p>	<p>Conformity with the Clean Air Act is a specific development scenario that will be analyzed at their appropriate APD or project stage with the necessary NEPA document. The impacts to resources affected will also be analyzed under that site specific NEPA document. See page 4, Section 1.3 of the lease sale EA, for a general discussion of development in relations to leasing. Also see Sections 3.2.1 and 4.2.1 for a discussion of air resources.</p> <p>Since development cannot be reasonably determined at the leasing stage, any site specific impacts cannot realistically be analyzed at this time. At the time of APD proposal, should the parcels be sold and development proposed, an</p>

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	<p>The Clean Air Act states that, “No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity” that does not conform to an approved state air quality implementation plan. 42 U.S.C. § 7506(c)(1). “The assurance of conformity . . . shall be an affirmative responsibility of the head of such . . . agency.” To ensure conformity, agency actions must not “cause or contribute to any new violation of any [air quality] standard” or “increase the frequency or severity of any existing violation of any standard in any area.” Id. § 7506(c)(1)(B). This statute is very broadly applicable.</p> <p>Pursuant to Clean Air Act regulations and the Wyoming SIP the BLM is prohibited from undertaking any activity in a nonattainment area that does not conform to an applicable SIP. See 40 C.F.R. § 93.150(a); see also Wyoming SIP at Section 3. Specifically, the BLM must make a general conformity determination for any activity authorized in an ozone nonattainment area that has direct and indirect emissions of VOCs or NOx that exceed 100 tons/year. See 40 CFR § 93.153(b)(1). Direct emissions are defined as those emissions that are caused or initiated by the Federal action and occur at the same time and place as the action. Indirect emissions are defined as those emissions that are caused by the Federal action, but may occur later in time or distance, and are reasonably foreseeable, and which the Federal agency can practically control and will maintain control over. See 40 C.F.R. § 93.152. To demonstrate conformity, the agency must follow the procedures at 40 CFR §§ 93.158 and 93.159. See 40 CFR §§ 93.150(b).</p> <p>In the EA, although BLM recognizes that general conformity requirements apply to oil and gas development, the agency asserts they do not apply in the context of leasing. This position is erroneous.</p> <p>The basis for kicking the can down the road appears to be that the BLM believes “there are no direct effects from the proposed oil and gas lease sale.” EA at 33. As BLM must know, however, direct emissions alone are not the basis for a requirement to perform a conformity determination. A general conformity determination is required if indirect emissions would exceed 100 tons per year of target pollutants. 40 CFR § 93.153(b)(1). Indirect emissions are defined as those:</p> <p>(1) That are caused or initiated by the Federal action and originate in the same</p>	<p>analysis of these resources will be completed.</p>

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	<p>nonattainment or maintenance area but occur at a different time or place as the action;</p> <p>(2) That are reasonably foreseeable;</p> <p>(3) That the agency can practically control; and</p> <p>(4) For which the agency has continuing program responsibility.</p> <p>40 C.F.R. § 93.152. Leasing is clearly a cause of future project emissions—if there are no leases, there are no new emissions. Those emissions are caused and initiated by the proposed action. They originate in the same nonattainment area, but simply at a later time. They are reasonably foreseeable as BLM acknowledges in the EA. BLM can practically control those emissions in a number of ways including, but not limited to, by choosing not to lease certain areas or by including stipulations that require limits on emissions or emitting practices. The agency has continuing program responsibility for those emissions, both through subsequent permit actions and ongoing inspection and enforcement oversight.</p> <p>All evidence supports the fact that the proposed leasing is a federal action that will produce—whether directly or indirectly—NOx and/or VOC emissions that are likely to exceed de minimis thresholds. To this end, the agency must provide an accurate emissions inventory to the public and the decisionmaker and perform a conformity determination. The preferred alternative will certainly show an emissions level above de minimis, requiring a general conformity determination. The proposed leasing cannot proceed until this occurs.</p> <p>The requirement to perform a conformity determination at the time of leasing is not only supported by the plain language of the Clean Air Act, but is in perfect synch with the spirit of that law. Congress intended a very broad application of the conformity provision to prevent the federal government from undermining states when it came to attainment of air quality standards. The law very clearly states that no agency, including the BLM, “shall engage in [or] support in any way . . . any activity” that does not conform to a SIP. 42 U.S.C. § 7506(c)(1). Further, meeting this requirement requires an “assurance of conformity” which is “the affirmative responsibility” of the BLM. Id. Leasing public minerals for development is surely engaging in an activity or supporting an activity that will lead to an increase in emissions of ozone precursors.</p> <p>Furthermore, it seems clear that it was not Congress’ intent that BLM could forego analysis of ozone emissions in a nonattainment area until the last possible moment, then carve up those emissions inventories by reducing analyses to a well-by-well basis. The end result of such a process</p>	

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	<p>could be that no one well ever exceeded de minimis levels, but the tens of thousands in the nonattainment area, with thousands more being approved every year, could make attainment of the ozone standard by the State of Wyoming simply impossible.</p> <p>BLM offers various excuses for avoiding its Clean Air Act obligations, none of which have any merit. First, BLM attempts to sidestep conformity responsibilities comes through the claim that future indirect emissions are not reasonably foreseeable. See EA at 33. The agency appears to assert that if or how lease parcels will be developed is so speculative that it is impossible to determine whether emissions might exceed de minimis levels. Therefore, according to BLM, a reasonably foreseeable emission inventory cannot be produced. Evidence to the contrary is abundant.</p> <p>First, the very basis of this lease sale is that potential buyers have gone to the trouble of assessing these very parcels for sale and have nominated them with that intent. There is no incentive to do so unless they intend to develop these parcels. Second, there is intensive oil and gas development that has already occurred in the Upper Green River Basin, and thus it is reasonable to presume that leases within the nonattainment area will lead to oil and gas development.</p> <p>The BLM also appears to imply that its proposed leasing decision is similar to an Initial Outer Continental Shelf lease sale, which is exempt from conformity requirements, and therefore that its action is similarly exempt. Initial Outer Continental Shelf leasing is a specific activity defined by regulation to involve potential emissions that are not reasonably foreseeable. C.F.R. § 93.153(c)(3). There is no basis for BLM to assert that this exemption shields the proposed leases at issue here. For one thing, EPA could have included all lease sales in the exemption—not just outer continental shelf lease sales—when writing its regulations, but did not. Clearly, onshore oil and gas leases were not included. Finally, the regulation expressly states that the exemption applies only to OCS lease sales “which are made on a broad scale.” The proposed leases have not been made on a “broad scale,” but rather are explicitly identified parcels with potential oil and gas development. The exemption at 40 C.F.R. § 93.153(c)(3) has no applicability to the proposed leases.</p>	

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36	<p><u>Wyoming Outdoor Council:</u></p> <p>Please accept these comments from the Wyoming Outdoor Council regarding the above referenced environmental assessment prepared by the Bureau of Land Management. The Wyoming Outdoor Council is the state's oldest independent conservation organization. We've worked for more than four decades to protect Wyoming's environment and quality of life for future generations.</p> <p>The Wyoming Outdoor Council supports the decisions made by the screening process for the November oil and gas lease sale environmental assessment (EA), which removes 32 whole and 16 partical parcels from the sale. However, we believe several of these partially deferred parcels should be fully deferred; we will address these individual parcels in our comments.</p> <p>We are appreciative of the State Director's decision in Alternative B to defer parcel WY 1511-013 pending the completion of the Rawlins Resource Management Plan (RMP) Visual Resource Management Amendment. This is a proactive and necessary decision. The Outdoor Council supports the agency in completing up-to-date inventories, analyses, and management prescriptions before leasing. WY 1511-013 straddles the Powder Rim, a place of far-reaching views, wild places, intact sections of the Cherokee Trail, and significant wildlife habitats. The Outdoor Council considers the Powder Rim a priority conservation area, a special landscape whose values deserve the analysis being completed in the RMP amendment. This analysis and the resulting management prescriptions will provide the necessary guidance to determine whether oil and gas leasing is appropriate for the Rim and other viewsheds in the Rawlins Field Office.</p> <p>Additionally we have concerns with parcels in three regions that are being offered fully or partially in the sale and with one individual parcel.</p>	<p>Thank you for your comments. No response needed.</p>
37	<p><u>Wyoming Outdoor Council:</u></p> <p>WY 1511-019</p> <p>We ask this parcel be fully deferred from the lease sale. While timing limitation stipulations have been applied for both raptor nesting and to protect pronghorn, and a controlled surface use stipulation will help protect the viewshed of the Overland Trail, we are concerned the BLM is making this decision without the most recent data. On the map provided with the EA for the Rock Springs Field Office, this parcel is not within mule deer crucial</p>	<p>A TLS has been applied to this parcel: TLS (1) Nov 15 to Apr 30; (2) as mapped on the Rock Springs Field Office GIS database; (3) protecting big game on crucial winter range.</p> <p>A Special Lease Notice has been applied to this parcel: This parcel is located within areas of delineated crucial winter range and/or identified migration corridors. BLM will consider recommendations received by the Wyoming Game and Fish Department, generally contained within a document entitled "Recommendations for</p>

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	<p>winter range. (It is mapped within pronghorn crucial winter range.) Yet the most recent data on mule deer winter range in this region implicates the acreage of this parcel. This research, which was completed for and at the behest of the Rock Springs Field Office, establishes that mule deer crucial winter range does extend to the west and encompasses this parcel. Additionally, this parcel is within several miles of the approximate origination of two major mule deer migration corridors—one that traverses 150-miles to the Upper Hoback and one to the southern Wind Rivers (Ibid). Management decisions regarding the protection of these important and sensitive migration corridors are pending in the Rock Springs Resource Management Plan. Until that analysis is complete—and the leasing EA takes into account the best available science—this parcel should not be leased.</p>	<p>development of Oil and Gas Resources within Important Wildlife Habitats" (http://wgfd.wyo.gov/web2011/Departments/Wildlife/pdfs/HABITAT_OILGASRECOMMENDATIONS0000333.pdf) if and when development of this lease is proposed. BLM will encourage the use of Master Development Plans in accordance with Onshore Order #1, on this lease parcel to the extent possible.</p>
38	<p><u>Wyoming Outdoor Council:</u></p> <p>Normally Pressured Lance parcels The sale offering includes six parcels within the boundaries of the proposed Normally Pressured Lance gas field. We ask that the BLM defer WY 1511-038, -039, -040, -042, -043, and -044 pending the release of the Environmental Impact Statement (EIS) for this development. That document, which is in process now, will identify the full slate of concerns with oil and gas development in this region, and it is premature to offer leases in this area while the EIS is pending.</p> <p>There is a fundamental precept reflected in the National Environmental Policy Act (NEPA), and the BLM's oil and gas leasing regulations (including the oil and gas lease reform instruction memorandum, IM 2010-117), that the agency should "look before it leaps." It is impossible to meet this precept if the agency makes leasing decisions while it is in the midst of revising the environmental document that will govern the terms and conditions under which oil and gas development occurs. Until this EIS is finalized BLM cannot know what new mitigation measures might apply to this area, and therefore the stipulations attached to the proposed lease parcels may or may not comply with what will be needed, and required, in the future.</p> <p>These parcels also deserve site-specific analysis at this stage as the development submission by Jonah Energy that is being analyzed for the Normally Pressured Lance (NPL) EIS contains information for "reasonably foreseeable sites-specific impacts." (N.M ex rel. Richardson v. BLM, 565 F.3d 683, 718-19 (10th Cir. 2009)) This lease sale EA states that "the BLM has not received any specific</p>	<p>Absent a definitive development proposal for the lease it is not possible to conduct 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> <p>While the offering the parcels is in compliance with the BLM Land Use Planning Handbook H-1601-1, Section VII.E., which states, "Existing land use plan decisions remain in effect during an amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use", the SD has invoked discretion and has deferred these parcels pending completion of the 9-Plan Greater Sage-Grouse RMP amendment process.</p>

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	<p>development proposals concerning the proposed lease parcels addressed in this EA” (4). We disagree; the NPL development proposal (and the Moxa Arch Infill / Blacks Fork EIS, below) would contain the specifics necessary to conduct site-specific analysis for these parcels at this stage. Until this is completed, these parcels should be deferred from the lease sale.</p> <p>Importantly, the NPL EIS will incorporate updated decisions regarding greater sage-grouse management. Currently, the Wyoming Governor’s Executive Order 2011-5, which provides guidance for sage-grouse management, is under revision and winter concentration areas will be included with specific stipulations for management. The BLM is also reviewing sage-grouse management in this area, and hasn’t released new sage-grouse management prescriptions under the Sage Grouse RMP Amendment EIS.</p> <p>We believe it is also premature to lease these parcels when stipulations for sage-grouse specific management have yet to be released. The latest science, which is widely recognized by wildlife agencies and state decision makers, identifies this area as an important winter concentration area, where thousands of grouse gather to survive the winter months. An official winter concentration area designation is only awaiting the final release of the revised EO later this summer.</p> <p>This EA acknowledges that these parcels are in sage-grouse winter concentration areas: The map provided identifies these parcels as having multiple sage-grouse “winter sitings.” And the timing stipulations for this parcel acknowledge that this is a sage-grouse winter concentration area.</p> <p>The timing stipulation attached to this winter concentration area, however, does not comport with language in the existing EO. The EO states that, “All effort should be made to minimize disturbance to mature sagebrush cover in identified winter concentration areas.” Order 2011-5, Attachment B, General Stipulations, 3. Seasonal Use (page 9). We recommend BLM defer these parcels pending the incorporation of the best available science (which states that surface disturbance should be restricted and human disturbance minimized in areas of intact big sagebrush) and the new management prescriptions that will be released by the State of Wyoming and BLM this summer. For a literature review regarding best management practices for sage-grouse winter habitat, please see the attachment to these comments (Copeland and Holloran, 2015).</p>	

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39	<p><u>Wyoming Outdoor Council:</u></p> <p>Moxa Arch area parcels</p> <p>In this EA the BLM has analyzed a large number of parcels straddling U.S. 189 in the Moxa Arch area east of Kemmerer. The parcels north of the highway have been deferred due to the pre-screening process and we support that decision. This is a massive area of undeveloped and generally pristine sagebrush habitat. It should remain that way.</p> <p>Under the Kemmerer RMP, much of this area is managed as visual resource management (VRM) class III and Class II so as to protect the high quality segments of national historic trails that cross here and that include special recreation management areas. The Kemmerer RMP dictates that this area is to be managed as a contiguous vegetation block to protect intact sagebrush habitats. Decision 4015 of the RMP provides that BLM will, “[m]anage large contiguous blocks of federal land by maintaining or enhancing sagebrush, aspen, and mountain shrub communities. Maintain connections between these community types by managing projects to minimize construction disturbance to the smallest acreage possible with consideration for engineering feasibility and safety.” This area contains mule deer and elk crucial winter ranges, and is home to numerous raptor nests. And of course, as shown in the EA’s sage-grouse map, this area contains large areas of sage-grouse nesting brood habitat, many occupied sage-grouse leks, and a large number of winter sage-grouse sightings. For all of these reasons, deferring the sale of these parcels is warranted and BLM should maintain this decision in the final EA and finding of no significant impact (FONSI).</p> <p>But, as with the Normally Pressured Lance parcels above, we have procedural concerns with the parcels north of Opal and south of U.S. 189. We ask that WY 1511-046, -048, -049, -050, -058, 059, -060,-061, -066, -067, -068, -069, and -070 be deferred. Parts of these parcels have been partially deferred due to issues identified in the pre-sale screen, but we believe all of these parcels in their entirety should be deferred because they are implicated in the pending release of a site-specific EIS.</p> <p>Since 2007, the BLM has been revising its development guidance for this area, first in what was called the Moxa Arch Area Infill Gas Development Project Draft EIS, and now in what is called the Blacks Fork EIS. We believe it is inappropriate to offer lease parcels in this area while this EIS is still being developed. Until this EIS is finalized</p>	<p>Resource management plans (RMP) make resource allocation decisions concerning the availability of lands for oil and gas leasing. This EA addresses whether nominated parcels are available for leasing in conformance with the RMP, and applies appropriate RMP stipulations to the lease sale parcels. The Blacks Fork Project mentioned in your comment is not proposing to amend the existing RMP and cannot provide any additional stipulations for the parcels in question.</p> <p>As such, offering these parcels is in compliance with the BLM Land Use Planning Handbook H-1601-1, Section VII.E., which states, “Existing land use plans decisions remain in effect during an amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use.</p> <p>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. As well, development of the parcels in question will need to comply with the provisions of any decision on Blacks Fork if the parcels are within the boundary of the project area, and if development proposed is consistent with the proposed action of the programmatic Oil and Gas EIS if and when a decision be issued.</p> <p>For comments regarding sage grouse, please see response to comment # 4.</p>

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	<p>BLM cannot know what new mitigation measures might apply to this area, and therefore the stipulations attached to the proposed lease parcels may or may not comply with what will be needed, and required, in the future. Additionally, though the EA has stated that no development proposals have been submitted for any of the parcels in this sale, the proposals for the Moxa Arch Infill and Blacks Fork EIS meet this requirement and necessitate that site-specific analysis be undertaken for parcels within the purview of that development, which includes these parcels.</p> <p>The Moxa Arch area, like the region north of U.S. 189 where the BLM deferred many parcels from this sale, also clearly contains many important environmental values that should be protected. Crucial winter ranges for mule deer, elk, and pronghorn are located near these parcels. There are many seasonal raptor buffers located in the area. Sage-grouse nesting brood habitats and occupied sage-grouse leks, as well as winter siting areas, surround these lease parcels. The new, revised, Moxa Arch Infill EIS (Blacks Fork EIS) may well put in place new mitigation for these and other resources, especially measures related to reclamation for these soils that are extremely difficult to reclaim and revegetate. Air quality issues will also probably demand new, enhanced mitigation measures. Given these significant environmental concerns, which will likely be addressed in the pending Blacks Fork EIS, the BLM should not offer these lease parcels for sale at this time.</p> <p>In addition to the pending Moxa Arch Infill EIS (Blacks Fork EIS), the BLM should also consider whether it is appropriate to lease these parcels while the Wyoming Greater SageGrouse RMP/LRMP Amendments EIS (the "Nine-Plan EIS") is still under review and in preparation. This EIS too could lead to significant new mitigation requirements that may or may not be reflected in the stipulations currently attached to these lease parcels. It also appears to us based on the Oil and Gas Lease and Active Wells map that accompanies the EA for the Kemmerer Field Office that the proposed leases would expand leasing into a currently unleased area. We suspect this could be an attempt to facilitate the massive increase in development that has been proposed for the Moxa Arch Area. The initial proposal in 2007 called for an infill of 1,861 new wells but BLM's current NEPA Hotsheet shows that, the proposal has been expanded to approximately 7,500 wells. This massive increase in development should not be given a "green light" while the underlying environmental review (EIS) is not even complete and in place. NEPA, the Council on Environmental Quality's (CEQ) NEPA</p>	

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	<p>regulations, the Mineral Leasing Act, and BLM’s oil and gas leasing and development regulations (including IM 2010-117) prohibit this.</p> <p>Pending the completion of this EIS and the incorporation of best management practices and appropriate mitigation measures matched to resources, the Wyoming Outdoor Council will likely not oppose leasing in the Blacks Fork EIS area. Infilling existing fields such as the Moxa Arch gas field is often the appropriate management decision. We recognize that several of these parcels are within the checkerboard lands and are within a region that is heavily developed for oil and gas extraction.</p>	
40	<p><u>Wyoming Outdoor Council:</u></p> <p>Big Sandy Foothills parcels</p> <p>Lastly, we support the decisions to defer parcels WY 1511-021, -023, -035, and -036 in the Big Sandy Foothills (which stretch east of U.S. 191 and north of WY 28, to the Bridger-Teton National Forest boundary in the Wind River Range.) Parcels WY 1511-020 and -022 are partially deferred, but we ask the BLM to defer them in full. This area is pending analysis in the Rock Springs RMP revision and, as with many of the parcels identified above, are very likely to be implicated in new management decisions encapsulated in the Sage Grouse RMP amendment and the revised Wyoming Greater Sage-grouse Executive Order. Leasing here should be deferred until management is settled with up-to-date research and management prescriptions.</p> <p>Importantly, this region of sagebrush steppe leading up the foothills of the Wind River Range are vital for ecological and cultural reasons. This is a largely unleased area—one of the last unleased and undeveloped sagebrush steppes in the Upper Green River Basin. Local wildlife managers refer to the Big Sandy Foothills as the “golden triangle” because of the incredible wildlife habitat provided for sagebrush obligate species ranging from small ground-nesting birds to big game crucial winter range and migratory corridors.</p> <p>This area is equally rich in cultural values; prized by both hunters, fishing enthusiasts, and those who look forward to traipsing in solitude across sagebrush foothills. It is locally important for livestock grazing and contains some of the best preserved sections of the Oregon, California, and Mormon National Historic Trails and the Pony Express Trail. History enthusiasts can revisit our heritage; traversing these trails across the Foothills is the same experience</p>	<p>Resource management plans (RMP) make resource allocation decisions concerning the availability of lands for oil and gas leasing. This EA addresses whether nominated parcels are available for leasing in conformance with the existing RMP, and applies appropriate RMP stipulations to the lease sale parcels.</p> <p>Offering the parcels is in compliance with the BLM Land Use Planning Handbook H-1601-1, Section VII.E., which states, “Existing land use plans decisions remain in effect during an amendment or revision until the amendment or revision is completed and approved. The decisions of existing land use plans do not change. For example, if current land use plans have designated lands open for a particular use, they remain open for that use.</p>

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	<p>today as it was when emigrants were walking behind dusty wagons and pulling heavy handcarts. Preserving this heritage landscape is crucial for future generations to fully understand the history of the United States. These rich values are being considered in the analysis of the Rock Springs RMP and preemptively determining their fate by leasing them in the November sale should be reconsidered.</p>	
41	<p><u>Wyoming Game and Fish Department:</u></p> <p>The staff of the Wyoming Game and Fish Department has reviewed the Environmental Assessment for the High Desert District of the November 2015 Oil and Gas Lease Parcels. We support Alternative B, Proposed Action, of the Environmental Assessment.</p>	<p>Thank you for your comments. No response needed.</p>