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April 2, 2007

Mr. Matt Anderson, Project Lead
 Bureau of Land management
 Pinedale Field Office
 P.O. Box 768
 Pinedale, Wyoming, 82941

Re: Pinedale Anticline SEIS

Mr. Anderson:

The Environment Preservation Foundation (hereinafter "EPF") appreciates the opportunity of submitting comments on the Draft Supplemental Environmental Impact Statement (SEIA) being prepared for the Pinedale Anticline Project Area (PAPA). EPF is a registered 501(c)(3). Our primary interests are the long-term impacts to wildlife that continued development poses, and with the protection, enhancement, and restoration of wildlife habitat.

The "Dear Reader" letter suggest that the BLM will not provide a formal response if the comments are "only opinions or preferences." Following that advice, EPF would like to request some changes and additions to the SEIS.

W-1
 EG-16-1
 In the Executive Summery, p. viii, para 3 **Wildlife and Aquatic Resources**, please change sentence 1, "Implementation of any alternative is likely" to "Implementation of any alternative will create additional barriers to wildlife." That is an accurate statement of reality of what will happen as the development of the gas field proceeds. You are already familiar with the recent studies of big game and sage grouse to be aware of what will happen on the PAPA as a result of the expanding drilling program.

W-2
 EG-16-2
Chapter 1, p. 7, para 3 notes that BLM "coordinates a review with the Wyoming Game and Fish Department." EPF requests that language be added that BLM will comply with the recommendations of the WG&F.

W-3
 EG-16-3
Chapter 1, p.8, Section 1.6 **Proposed Action** provides a summary of the direct impact that is expected from the planned project. Throughout the document, these figures change, depending on the proposed action. However, nowhere in this chapter or in the subsequent chapters, is there included the impacts resulting in wildlife behavioral pattern changes that render the real impacts to be much more than stated in the SEIS. EPF asks the BLM add information in all applicable chapters and sections on the behavioral changes addressed in the recent regional game studies and include those estimated totals

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W-3 | as well in the **Proposed Action** and other sections in order for the public to understand
 | EG-16-3 | the true impact of development. The results of near total abandonment by wildlife of the
 | | Jonah Fields are well known and the impact to wildlife behavioral patterns within the
 | | PAPA should not be hidden by ignoring them in the SEIS.

G-1 | **Chapter 1, Section 1.7 Purpose and Need**, p. 9, last paragraph “The Operators’
 | EG-16-4 | Proposed Action Would:

- provide for compensatory mitigation, EPF asks that this be defined. Just what constitutes “compensatory mitigation”?

Chapter 2, p. 2 **Section 2.2.2 Summary of Concerns** para 2 states, “Concerns introduced by the public, industry, interested groups, and other agencies are summarized below:

- BLM should analyze an alternative that emphasized conservation and wildlife in the PAPA;
- The impact to wildlife by current development has been a major concern. Although monitoring must continue, new approaches to mitigation should be developed and monitored;
- The effects on livestock operators and private landowners by wildlife displaced due to development in the PAPA should be evaluated on-site and off-site, and mitigation should be proposed;
- Hunting is impacted by declining wildlife population;”

Having stated all that, the SEIS then reverts to old, rather than new approaches, in **Chapter 2, Section 2.4.2.1 Components Common to All Alternatives**, p. 14 **Mitigation Requirements** references to the *Gold Book* (2006) that provides guidelines for restoration, and in **Appendix C Wildlife And Habitat Mitigation Plan Recommendations for Development of Oil and Gas Resources within Crucial and Important Wildlife Habitats** (Wyoming Game & Fish Department 2004) but offers nothing “new”. EPF notes with interest that effects on livestock operators and private landowners should be evaluated on-site or off-site, so why not consider the same for the wildlife? EPF asks the BLM to include in the **Mitigation Requirements** a section that provides for consideration and approval of substantial off-site mitigation (we suggest a minimum of a 3:1 ratio) and that such considerations be taken into account immediately before any further development of the PAPA is allowed to go forward.

The reasoning for this is simple. While the *Gold Book*, the Recommendations for Development of Oil and Gas Resources within Crucial and Important Wildlife Habitats and the application of Best Management Practices might reduce to some extent the overall direct impact to wildlife habitat, it still does not address the fact that thousands of acres of critical habitat **have been removed in recent years and will continue to be removed in the immediate future**. This lost habitat needs to be replaced aggressively

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and immediately with equal if not superior habitat. Efforts to restore portions of some impacted locations will take decades to succeed (cf “Guidelines to manage sage grouse populations and their habitats,” Connely *et. al.* in Wildlife Society Bulletin 2000) and in cases of long term operations on wells and access roads, it will be decades before the impact to the habitat can be anywhere near completely countered, assuming such efforts will be successful (and there is no guarantee of success). In the meantime, wildlife is being starved, pushed off what now exists as habitat onto far less effective areas to compete with wildlife already in place in order to survive. Add to this behavioral patterns that cause abandonment of more habitat than that directly impacted by wells, pipelines and roads. Given that the on-site mitigation strategies being used by the BLM are not working today according to the recently published big game studies, the BLM needs to commit to other mitigation alternatives.

43 CFR Part 2090 Section 3809.420 sets forth performance standards and the BLM is required to meet those standards. In commenting on the **Final Rule** in the Federal Register, November 21, 2000, Vol. 65, No. 225 pp. 70049-50, the EPA states:

“Compliance with the performance standards is part of preventing unnecessary or undue degradation. However, while BLM intends that compliance with an approved plan of operations would be adequate to meet the performance standards, this may not always be the case. Conditions or circumstances that were not anticipated during initial plan approval may eventually occur, **requiring** (emphasis ours) that operations be modified in order to meet the performance standards and prevent unnecessary or undue degradation.”

It is clearly evident from the recent big game studies that what “may eventually occur” has occurred-the wildlife within the PAPA is being significantly impacted by continued development of the gas resources within the PAPA. This was not clearly anticipated in the former RMP. It is evident that minor reduction of impacts only by adjusting well sizes or numbers will still result in immediate impact to the wildlife habitat and prevent the BLM from reaching required performance standards, thus preventing unnecessary or undue degradation to the habitat and the wildlife that depends on it. Nor can the BLM manage the PAPA within the concept of sustained yield of all resources without requiring superior alternative mitigation.

In at least two sections of **Chapter 2** (p. 23, para 4 and p. 23, full para 1) the operators request “temporary relaxation of seasonal wildlife stipulations.” While the operators may think it is “temporary” there is nothing “temporary” about the removal of critical habitat. To the effected wildlife, the impact is immediate and permanent. It only takes a couple of months of stress and lack of food to kill wildlife. EPF asks that the document openly reflect that the request for temporary relaxation of seasonal wildlife stipulations will have immediate and long-term impact on wildlife and habitat.

In the same section and on the same page in para. 2, the SEIS provides a statement based on a blatantly false assumption when it states “It is assumed the southern-most portion would have achieved a self-replication vegetative community functioning at a pre-

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disturbance level.” The only way that is possible is if the southern-most portion of the DA-1 area has been completely depleted of all resources and to have been completely rehabilitated in all impact areas, which will not be reality for 20 to 30 years given the lifetime of the resource. Development of the northern portion of the DA-1 will be well underway before the southern area is abandoned and anywhere near “self-replication.” While reclamation should be undertaken in one portion of the field as another develops, it is improper to proceed with future management decisions based on false assumptions. EPF asks that that entire sentence be removed from the paragraph.

Chapter 4 Section 4.20 WILDLIFE AND AQUATIC RESOURCES; Section 4.20.1 Scoping Issues states:

- BLM should consider off-site mitigation strategies in the region, beyond the agency’s administrative boundaries (including reducing impact on big game summer range and restricting development on undeveloped or suspended oil and gas leases), to offset impact to wildlife in the PAPA and potential conflicts with people and other wildlife by off-site mitigation.

The remainder of the Chapter 4 goes on at some length to detail impacts to wildlife, the amount of impact that will occur under various alternatives, discusses issues related to fragmentation, edge creation, loss of function, diminished effectiveness, yet there is nothing further in addressing the potential for off-site mitigation or what it might require. BLM should add information about the possibility and requirements of off-site mitigation to the SEIS.

Further, EFP asks the BLM to do more than “consider” off-site mitigation for lost habitat. In the original RMP, BLM said it would “consider” off-site mitigation but has yet to actually provide or approve off-site mitigation in the PAPA. EFP asks that BLM and the Proponents to commit to the approval and development of off-site mitigation for habitat loss prior to further development on the PAPA for any alternative selected and that the commitment be incorporated in the document in all appropriate sections.

Chapter 4 Section 4.20.3.1 Summary of Impacts Common to All Alternatives, Big Game p. 4-130 first full para states:

“Lost habitat and diminishing habitat function may eventually lead to population declines but such demographic response to impact is most likely after some time has elapsed.”

In light of recent big game studies already noted in the SEIS, the big game herds are already in decline and the decline can be related to wellfield development as much as any other cause. The wording “may eventually lead” should be replaced with “will lead to population declines.” If the agency insists on retaining the sentence as is, support documentation should be inserted to defend the use of the word “may” rather than “will”, especially given the summaries of the more recent studies by Nagelkerke *et. al.*, 2002 and Forman *et. al.*, 2003 referenced later on in the same chapter.

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Chapter 2 Section 2.4.2.1 EPF has a serious concern with contaminated fluids produced during the drilling or production phase, and the methods used to prevent access to contaminated fluids while they are exposed on the surface of the PAPA, whether they are confined in ponds, retention basins, reserve pits or any other rubric used to describe such features.

While most of the fluid produced during the production phase is proposed to be removed via pipeline to the Anticline Disposal Facility (Chapter 2, p. 2-10), movement of the contaminated fluids is currently completed by truck, or evaporation and/or possibly re-injection. A pipeline system will not be in place until 2007 (we are already in 2007 and the network of pipelines is not complete) and nowhere in the SEIS does it state that **all** contaminated fluids would be removed to the Anticline Disposal Facility by the pipeline network. This leaves open the potential of having contaminated fluids exposed on the surface of the well pads and potentially attractive to resident and migratory wildlife. The U.S. Fish & Wildlife Service has estimated that nearly 2.5 million migratory birds are killed in major migratory flyways each year by exposed contaminated water produced by drilling and well production activity.

In **Chapter 2 Section 2.4.2.1 Components Common to All Alternatives** p 2-14 first para. states:

“BLM would incorporate environmental Best Management Practices (BMPs)...”

with reference to the Gold Book. The Gold Book has little to say about protecting wildlife from contaminated fluids other than to state on p.17 fourth para;

“Reserve Pits should be appropriately fenced to prevent access by persons, wildlife, or livestock.”, and on p. 39, first full para:

“Pits, water impoundments, and surface discharges that present a potential hazard to humans, livestock, wildlife, and other resources should be subject to appropriate mitigation, such as fencing, netting, caging, or covers, as appropriate.”

Efforts such as netting or covering or even flagging have proven less than effective in recent studies (cf Holloran 2005, Holloran, M.J., and S.H. Anderson 2004). EPF asks that the BLM include in the SEIS in the referenced section of Chapter 2 and other appropriate sections the following language:

“BLM will incorporate environmental Best Management Practices (BMPs) or the application of new methods that prove more effective in preventing humans, livestock or wildlife from accessing surface standing contaminated fluids into the APE Surface Use Plan of Operations by the Operator under all alternatives.”

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The SEIS calls for monitoring in a number of locations. **Chapter 1 Section 1.3 PAPA EIS AND ROD** p.1-5, notes:

- Required Adaptive Environmental management (AEM) with monitoring and/or reporting;

This is also noted as a major concern of the public in their comments in **Chapter 2 Section 2.2.2 Summary of Concerns** p. 2-2:

- The impact to wildlife by current development has been a major concern. Although monitoring must continue, new approaches to mitigation should be developed and monitored: and

Chapter 4 Section 4.1.4 Scoping Issues p. 4-14:

4. Current and future operators should be held to commitments and responsibilities through effect monitoring and enforcement. And again in **Chapter 4 Section 4.20 Wildlife and Aquatic Resources, Section 4.20.1 Scoping Issues**:
8. BLM should monitor the implementation and effectiveness of applicant-committed mitigation measures and effects of current development over the long-term to allow for better management of continued and future development.

Finally, in the **Appendix-C, Reclamation Plan: Proponent Committed Measures for Reclamation** p. 1-15:

3. Proponents will continue to monitor reclaimed areas and will encourage review of the monitoring data by BLM, Wyoming Game and Fish Department, and Wyoming Department of Agriculture habitat experts.

Given the above stated concerns of the public and commitments by the Proponents, EPF asks that the following be added to **Chapter 4 Section 4.20.5 Alternative Impact Mitigation**:

- The BLM will complete random monitoring of their own to verify the monitoring reports submitted by the proponents.
- The BLM will make all monitoring reports available to the public and will organize the reports in a way that the reports will be easily accessible to the public and take little time to find.
- The BLM will notify the public and will have a file on hand of any and all Notice of Violations (NOVs') wherein proponents have fallen out of compliance with their permits, and that this file will be easily accessible to the public.

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EPF also requests a few changes or additions to the **Appendix C Attachment 4 Wildlife and habitat Mitigation Plan.**

1. p. C-33 Restoration of Impacts: “Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.” second bullet, add “other Parties of Interest” to the list of coordinators.
2. Third bullet, change “Key habitats” to “key and historic prime habitats” and “occur on-site, or immediately adjacent” to “occur on-site, adjacent to/or near-by off-site to impacts.”

We also ask that Compensation for Impacts: “Compensating for the impact by replacing or providing substitute resources or environments.” first bullet be changed to read:

“The Proponents have agreed to a 3:1 acre off-site mitigation ration to compensate for loss of on-site habitat.....” and the third bullet to read:

“Off-site mitigation will be implemented if off-site measures are considered to be of greater value to on-site mitigation.”

Again, EPF appreciates the opportunity of commenting on the DEIS. Making the requested changes will make the future of the Pinedale Anticline far better for wildlife and natural habitat and will have permanent positive benefits for the public, the agencies and the proponents.

Sincerely,



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