

BOARD OF COUNTY COMMISSIONERS
Sublette County, Wyoming
P.O. Box 258
PINEDALE, WY 82941

February 11, 2008

Caleb Hiner, Project Lead
Bureau of Land Management
Pinedale Field Office
1625 West Pine Street
P.O. Box 768
Pinedale, WY 82941

Re: Pinedale Anticline Revised Draft SEIS

Dear Mr. Hiner:

On behalf of Sublette County, please find the comments prepared to address issues found in the Pinedale Anticline Revised Draft SEIS. The County looks forward to discussing the issues raised in these comments.

Sincerely,



William W. Craner
Chairman



Sublette County Conservation District

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A handwritten signature in black ink, appearing to read "Darrell Walker".

Darrell Walker
Supervisor, Sublette County Conservation District

The Sublette County and Sublette County Conservation District (SC & SCCD) submit the following comments on the Pinedale Anticline Oil & Gas Exploration and Development Project Revised Draft Supplemental Environmental Impact Statement (*Rev'd.* DSEIS). Many of the comments provided in the past have not been included or addressed. In those cases, SC & SCCD resubmit the comments. SC & SCCD will be providing supplemental comments to address more data specific issues in the next few weeks.

SC & SCCD appreciate the identification of a preferred alternative in the *Rev'd.* DSEIS. This facilitates effective comments that are relevant and material. SC & SCCD also appreciate the changes made since the first draft a year ago.

Comment 1 *Ex Parte* Meetings to Change the Alternative

BLM developed the preferred alternative without the involvement of all of the cooperating agencies in violation of the National Environmental Policy Act (NEPA). The development of an alternative while excluding the cooperating agencies is grounds to set aside the FEIS. *International Snowmobile Manuf. Assn. v. Norton*, 340 F. Supp.2d 1249, 1262 (D. Wyo. 2004) (setting aside the ban on snowmobiles because the National Park Service, after the close of the public comment period, proposed a revised preferred alternative, which was not shared with all of the cooperating agencies for two months).

The practice of excluding some cooperators, in all cases the local governments, while discussing new alternatives with one state cooperating agency also violates BLM policy. The *Cooperating Agency Desk Guide* emphasizes the importance of the partnerships and recognition of local government authorities. It states:

BLM managers and staff should acknowledge that the CA relationship requires new ways of doing business. Engaging with government partners as CAs is not another form of consultation or public involvement. Cooperating agencies expect and deserve to be given a significant role in shaping plans and environmental analyses—not merely commenting on them—commensurate with their available time and knowledge.

Desk Guide at 3.

BLM has not held a meeting with all of the cooperators on this EIS in more than two years. Nevertheless BLM continues to selectively meet with cooperators to discuss revision of the preferred

G-2
LA-1-2

alternative and other material issues, including compensatory mitigation. BLM claims that it is not holding the meetings, merely responding to questions. One such “meeting” was discovered at the Pinedale BLM offices, where BLM was meeting separately with Wyoming Game and Fish Department (WGFD) and the operators on October 19, 2007. The selective meeting process precludes the collaboration and resolution of important issues.

Comment 1.1 Omission of Local Government Expertise

G-3
LA-1-3

As cooperating agencies, SC & SCCD are particularly disappointed with the failure of *Rev’d.* DSEIS to recognize their respective areas of jurisdiction and expertise. The *Rev’d.* DSEIS fails to address county transportation and services issues, conservation and mitigation issues, and county land use and jurisdiction issues. See Comments on Preliminary DSEIS Oct. 23, 2006, Nos. 1,5,6,9,16,27,29, 30, 31,33,40,43,46, & 49.

Comment 1.2 County Building Code Jurisdiction

LU-1
LA-1-4

The Revised DSEIS also omits any reference to county authority over the construction of buildings and related structures. See e.g. Sublette County Comprehensive Plan (1999 - 2003); Zoning and Development Regulations Resolutions, Sublette County Floodplain Management, Building Permit Application, and Road Standards for County of Sublette.

Comment 1.3 SCCD omitted as a cooperator

G-4
LA-1-5

The *Rev’d.* DSEIS still omits SCCD as a cooperator. *Rev’d.* DSEIS at 1-2. It took the Pinedale Office more than two years to recognize the SCCD request for cooperating agency.

Comment 1.4 Refusing to talk to local governments without another MOU

G-5
LA-1-6

SC & SCCD met with BLM to discuss the *Rev’d.* DSEIS. BLM officials told SC & SCCD that it needed yet another Memorandum of Understanding (MOU) before it would treat SC & SCCD as cooperators. No other cooperating agency was required to resubmit such a request.

Comment 2 Compensatory Mitigation Issues Remain Unaddressed

Comment 2.1 Define compensatory mitigation: onsite and offsite

The CEQ rules require that at least one alternative consider mitigation measures not already included in the proposed action. 40 C.F.R. §1502.14(f). The Record of Decision must discuss whether the mitigation measures address all of the significant or irreversible impacts. 40 C.F.R. §1505.2(c). Moreover, whenever a cooperating agency’s comments identify additional mitigation measures, the

agency must consider them and, if not adopted, must explain the reason for not doing so. 40 C.F.R. §1503.3(d).

Compensatory mitigation refers to the development or acquisition of substitute or replacement resources. IM 2005-69 Att. 1, Definitions; 40 C.F.R. §1508.20(e). BLM policy identifies two classes of compensatory mitigation, onsite and offsite. BLM can require compensatory mitigation onsite. IM 2005-69 citing 65 Fed. Reg. 69998, 70012 (Nov. 21, 2000). Off-site compensatory mitigation is voluntary and adopted only if BLM has determined that onsite mitigation measures are not sufficient. IM 2005-69 at 3.

The *Rev'd.* DSEIS does not address opportunities for onsite compensatory mitigation, which are quite different from reclamation or offsite compensatory mitigation plan set out in *Rev'd.* DSEIS App. 9. SC & SCCD believe that this is an important opportunity that should not be overlooked.

Comment 2.2 Address all impacts on vegetation, soil, water, and other land uses

SC & SCCD propose to expand a compensatory mitigation plan to address more than just wildlife habitat in order to address the full range of affected resources. In addition to addressing onsite compensatory mitigation opportunities, a revised compensatory mitigation plan would add the following objectives:

- (1) Improve riparian area soil, water, and vegetation components (which would enhance habitat function), vegetation diversity when appropriate, and manage to remove or reduce noxious or invasive plant species;
- (2) Enhance vegetation and soil stability in riparian areas to improve vegetation, water quality, and water temperatures;
- (3) Implement livestock range improvements (water developments, fencing and/or vegetation enhancements) that promote livestock distribution and utilization and reduce grazing impacts and pressure on riparian areas;
- (4) Improve livestock grazing forage through habitat improvement projects, including vegetation treatments;

Comment 2.3 Compensatory Mitigation limited to wildlife habitat

The compensatory mitigation plan put forth in the *Rev'd.* DSEIS is a very limited plan that only addresses wildlife habitat. Vegetation projects to improve wildlife habitat, whether in the project area or outside on other lands, will displace livestock grazing permittees for up to three years

(depending on treatment and weather).¹ This displacement will occur in addition to the development displacement due to construction of well pads, pipelines and roads.

Projects that could mitigate impacts on livestock grazing use and improve resource conditions on the public lands, such as fencing and water development, are often opposed by WGFD as not beneficial to wildlife habitat. Thus, the mitigation for wildlife habitat will not lead to improved rangeland conditions in many instances and require additional grazing reductions to accommodate both gas development and expanded wildlife habitat management.

SC & SCCD believe that wildlife habitat and improved rangeland resources are not mutually exclusive or even contradictory objectives. For this reason, SC & SCCD recommends revision of the compensatory mitigation plan to ensure that the scope of the plan is broad enough to encompass improved rangeland resource conditions for all grazing animals. This in turn will also ensure improved resource conditions for all multiple uses.

Comment 2.4 Failure to involve cooperators in compensatory mitigation plan

The wildlife habitat mitigation plan, Appendix 9C for Alternative D, was developed without the involvement of most of the cooperators. Because BLM can require onsite compensatory mitigation, the rationale that this was an Operator sponsored idea fails. If it is onsite mitigation, BLM had to include all of the cooperators. If it is only offsite compensatory mitigation, the BLM cannot show that it has exhausted onsite compensatory mitigation opportunities.

Comment 3 Reclamation issues

Comment 3.1 Assumptions optimistic

SC & SCCD supported the Wyoming Department of Agriculture (WDA) comments filed March 28, 2007. The *Rev'd.* DSEIS assumes successful reclamation in three to five years, *Rev'd.* DSEIS at App. 4-12. and defines success by percent of plant cover. *Rev'd.* DSEIS App.8B-2; App. 8C-3.

The livestock grazing permittees will be the most affected by reclamation gaps. For example, noxious weeds moving into a disturbed site will also invade adjacent areas, pulling down the plant communities throughout the allotment. Noxious weeds are carried by a number of vectors, including wind, birds, wildlife, as well as livestock. Access to the pasture may also be prohibited during the revegetation period.

¹ BLM usually requires the pasture to be rested two to three years after treatment.

Comment 3.2 Expand suitable seed species

The *Rev'd.* DSEIS only authorizes the use of native seed species. *Rev'd.* DSEIS App.4-12. Experience with reclamation elsewhere in Wyoming shows that pure native seed mixes have relatively poor success especially in the first few years (1-5). If site stabilization is the first priority, then SC & SCCD recommend use of native-sterile seed mixture. *See e.g. Plans for Reclamation of the Surface - Draft Template* (July 2007).

SC & SCCD also support the concept of using a quick growing seed mix rather than a pure native seed mix initially. For other projects, BLM is adopting a sterile seed / native seed mix that will stabilize the site with initial plant growth that allows the slower growing natives to take hold over time, while providing plant cover and a stable site. This concept is also found in the BLM Washington Office Reclamation template. *Plans for Reclamation of the Surface - Draft Template* (July 2007). The past emphasis on pure native seed mixes often does not work, because the native seeds will not survive or grow quickly enough to dominate the site. Instead, noxious and undesirable plant species take over, and weed control involves spraying that also takes out the native plants, and then undesirable plant species persist.

Comment 3.3 *Rev'd.* DSEIS omits monitoring with respect to vegetation changes

The mitigation measures found in the *Rev'd.* DSEIS (App. 4 Standard Practices and Restrictions for the PAPA; App. 8 Reclamation, and App. 9D Wildlife Habitat Mitigation) have no provision for monitoring changes in vegetation, soil, or other systems within the project area and adjacent to the project area. SC & SCCD support development of a vegetation and rangeland resource monitoring program to identify changes in vegetation, soil, and water systems on the affected public lands. Monitoring should include livestock and wildlife utilization studies as well.

Comment 4 Failure to Involve Local Governments In Transportation Planning

The Revised DSEIS is written without regard to the county transportation plan or transportation issues raised in comments on the draft SEIS in April 2007 or comments on the preliminary revised draft in October 2007.

The PAPA is served by three primary county roads. *Rev'd.* DSEIS 3-32, Paradise, Boulder South, and East Green River. *Rev'd.* DSEIS 2-9, 3-32. The *Rev'd.* DSEIS documents the sharp increase in traffic levels on all roads. *Rev'd.* DSEIS 3-32 (from 640 vehicles a day on Hwy. 351 in

RC-2
LA-1-12
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LA-1-14 | 2001 to 2230 vehicles in 2006). This is equally true for Highway 191 and 189. *Id.* at 3-33. County roads where BLM put traffic counters show similar increases. *Rev'd.* DSEIS 3-36.

Comment 4.1 Issue of maintenance agreements for county road impacts

T-2 | LA-1-15 | The *Rev'd.* DSEIS states: "Sublette County maintains the county roads servicing the PAPA." *Rev'd.* DSEIS at 3-37. The PAPA FEIS ROD provided for maintenance agreements for the roads and transportation planning. PAPA FEIS ROD at 15-16. There is no evidence that this resulted in addressing the significant costs to the county for ongoing maintenance and repair. The county roads that run through the field should be part of a maintenance agreement. They provide the backbone for transportation and the majority of the traffic is related to gas development.

Comment 4.2 County issues for transportation planning

The *Rev'd.* DSEIS continues this omission by ignoring the local government concerns regarding impacts to the transportation system, litter, dust, and traffic. *See e.g.* *Rev'd.* DSEIS 2-21, App. 5D. The *Rev'd.* DSEIS Transportation plan needs to address

Repair and maintenance of county roads.

Reduction in litter and garbage that attracts predators and represents sanitary issues.

Dust and air particulates due to heavy industrial traffic, especially where PAPA collector system connects to county roads and county roads connect to Highways 191 and 351.

SC & SCCD have documented the wear and tear on county roads due to the heavy volume of truck traffic. See Comments on Draft SEIS, Nos. 2, 6, 10. The *Rev'd.* DSEIS refers to state funding for state highways but nothing about funding for county roads. *Rev'd.* DSEIS 2-8, 2-52.

T-3 | LA-1-16 | The *Rev'd.* DSEIS assumes decline in traffic at the end of the drilling period. *Rev'd.* DSEIS 2-21. This is unlikely unless it is at the end of the production period when wells are being abandoned. The *Rev'd.* DSEIS assumes no drop in work force during production period. *Rev'd.* DSEIS Table 2-4-17. Thus, traffic is unlikely to decline during production phase.

Comment 4.3 Exclude county roads on obliteration or rights-of-way

T-4 | The *Rev'd.* DSEIS calls for obliteration of roads but this needs to be limited to BLM roads and exclude all county roads. *Rev'd.* DSEIS 4-124.

T-5 | LA-1-17 | The *Rev'd.* DSEIS refers to Title V rights-of-way on roads in the project area. *Rev'd.* DSEIS 4-124. BLM cannot issue Title V rights-of-way on public roads owned by the county. The *Rev'd.* DSEIS needs to limit such rights-of-way to BLM roads relating to the project area.

Comment 4.4 Liquids gathering system unlikely to reduce county road traffic

The revised DSEIS also describes a possible liquids pipeline gathering system to reduce truck traffic separate from the system installed by Questar. *Rev'd.* DSEIS at 1-9, 2-18, Table at 3-36, Table at 4-38. This is not discussed in sufficient detail regarding location, length, to determine whether it will reduce the burdens on county roads. It appears more likely that it will only reduce traffic on the collector roads located on public lands between well pad sites and will not address the adverse impacts on county roads.

T-6
LA-1-18

Comment 4.5 Roads

Rev'd. DSEIS states: "Proponents will reclaim any road not required for routine operation and maintenance of producing wells or ancillary facilities as directed by the BLM, State Land Board, or private landowner." *Rev'd.* DSEIS App. D-2 ¶11. The county should also be involved.

T-7
LA-1-19

Comment 4.6 County involvement in gates

The *Rev'd.* DSEIS states "In consultation with BLM and WG&FD, Proponents will install gates as appropriate and supply other needed material in crucial winter range and sage grouse concentration areas to encourage compliance with traffic restrictions." *Rev'd.* DSEIS App. 5-3, ¶18. This paragraph needs to be revised to include consultation with landowners, permittees, and the county. Landowners enjoy statutory rights of access to their land, either along R.S. 2477 roads or other public roads. Grazing permittees are entitled to access to the grazing allotments pursuant to the Taylor Grazing Act, 43 U.S.C. §315. The county needs to know about access to meet law enforcement, search and rescue and other emergency service issues.

T-8
LA-1-20

Comment 5 Water Quality Monitoring Program Changes Unwarranted

The revised DSEIS appears to cancel the water quality monitoring program that SCCD has conducted for more than four years without communicating with SCCD. The rationale to do so is contradicted by the *Rev'd.* DSEIS, other public statements from BLM, and by the facts. The *Rev'd.* DSEIS §4.13.3.1 must be revised to conform to the facts.

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LA-1-21

Comment 5.1 Correct Incorrect Facts Relating to Water Quality Monitoring Program

The DSEIS incorrectly states: "As discussed in Chapter 3, Section 3.15.1.5, groundwater monitoring is conducted by SCCD on behalf of the Operators. The BLM initiated this program in 2005, and the number of sampled wells has grown to over 200 in 2007." *Rev'd.* DSEIS at 4-101.

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GW-2
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BLM did not initiate the groundwater monitoring program. The PAPA FEIS ROD provided that the Operators would fund a water quality monitoring program through the Pinedale Anticline Working Group (PAWG), chartered pursuant to the Federal Advisory Committee Act (FACA). ROD at 20 (well monitoring). ROD at 20. The PAWG formed seven task groups, air, cultural resources, socio-economic, transportation, reclamation, water resources, and wildlife. The Water Resources Task Group developed the monitoring and sampling analysis plan and procedures which were recommended by PAWG to BLM and adopted by BLM. WDEQ was and is a member of the PAWG and the Water Resources Task Group that approved these procedures.

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The *Rev'd.* DSEIS is written to imply that SCCD improperly conducted and designed the program. This is inaccurate. The sampling and monitoring procedures were developed through PAWG and approved by BLM. While it may be true that WDEQ now believes that the samples should identify the aquifer, this concept was discussed in the Water Resources Task Group and rejected as impossible and not necessary to meet the monitoring objectives set out in the ROD. WDEQ sits on this Task Group, which only works by consensus, and presumably agreed that it was not necessary to identify the aquifer from which each well drew water.² The *Rev'd.* DSEIS omits these material facts and thus misrepresents the situation.

Elsewhere the *Rev'd.* DSEIS explanation of the aquifers also concludes that it is difficult, if not impossible, to accurately determine from which aquifer each well draws water. *See e.g.* “Much of the variability in the Wasatch Formation aquifer results from its being comprised of many stacked and discontinuous sands and deposits of meandering rivers so that water supply wells encounter and draw water from different units in different locations. Sands are so variable they can rarely be interpolated between drill holes on quarter-section spacing. *This means that it is not practical to map individual water producing sand units, and it is practical only to monitor the Wasatch Formation as a heterogeneous aquifer, in whatever water-bearing sandstones are intersected by any monitored well.*” DSEIS at 4-102 (emphasis added).

If the above discussion is accurate, then it is not clear why it is erroneous for PAWG to have recommended not determining or mapping the various aquifers within the Wasatch Formation with respect to each well sampled. Over the monitoring period of 2004 to 2006, SCCD reports that it took 608 samples involving 237 wells. *Pinedale Anticline Ground Water Data Summary* (2007) at 2.

² PAWG works by consensus and recommendations do not go forward without agreement. http://www.blm.gov/wy/st/en/field_offices/Pinedale/pawg/consensus.html.

With the discovery of TPH, benzene, ethyl benzene, m+p-xylenes, o-xylene and toluene (BTEX) in some wells, SCCD took 100 samples in fall of 2006 and spring of 2007. *Id.* The Water Resources Task Group adopted the WDEQ request that all of the wells be sampled and SCCD has proceeded to do so.

Most of the sampled wells are culinary wells that are less than 200 feet deep. *Rev'd.* DSEIS §3.15.1.2, 3-81, 3-84-85. The water wells used by the Operators are deeper. *Id.* The major aquifer systems are deeper still. *Id.* The *Rev'd.* DSEIS Appendix 19 offers a generic model of the aquifer structure, with the caveat that there is insufficient data to actually build the model. *Rev'd.* DSEIS App. 19-5 (“A better model of probable hydrologic consequences in the Wasatch Formation aquifer might be constructed in the future, when the formation and its hydraulic properties are better known.”).

Comment 5.2 Section 3.15.3 also needs to be revised.

The *Rev'd.* DSEIS incorrectly states that SCCD was appointed pursuant to the ROD for the Pinedale Anticline FEIS (2000) and has worked through the Pinedale Anticline Working Group, a FACA chartered advisory committee, to monitor water quality. *Rev'd.* DSEIS 3-81. SCCD was not appointed in the ROD but recommended by the PAWG members and approved by BLM to conduct the monitoring. The ROD merely specified that there would be a water quality monitoring program which would address, groundwater, impacts on existing wells within one mile of a gas field well, and surface water quality monitoring would continue. PAPA FEIS ROD at 20.

Comment 5.3 Monitoring Sites were selected properly.

The *Rev'd.* DSEIS states that SCCD selected the sites to be monitored improperly. *Rev'd.* DSEIS at 4-103. The sampling procedures were developed and recommended by PAWG and approved by BLM. Based on the WDEQ criticism, BLM now proposes to initiate a *Regional Framework for Water Resources Monitoring to Energy Exploration and Development*. This framework is neither described or otherwise publicly available.³ It is not possible to determine how the Regional Framework would change the current sampling and analysis plan and procedures.

At the September 25, 2007 Water Resources task Group meeting the BLM hydrologist discussed the regional framework. He also stated: “The TG water-monitoring plan adheres to the

³ SC & SCCD received a copy on February 11, 2008. It is a 72-page exposition on how to set objectives for a monitoring program, rather than a technical procedures document. SC & SCCD reserves the right to provide additional comments.

report requirements.” PAWG Water Quality Task Group Minutes (9-25-07). Based on this statement, the *Rev’d.* DSEIS discussion about reasons to change the monitoring program is inaccurate.

Comment 5.4 Jurisdictional authority to regulate groundwater lacking

BLM lacks regulatory authority over groundwater and thus lacks the authority to impose monitoring criteria for groundwater. While BLM can require a monitoring program, the standards to be achieved and the expertise lie with state and local government agencies. Control over the waters is vested in the State of Wyoming. Wyo. Const. Art. 1, §31. State law delegates regulation of water quality to WDEQ, Wyo. Stat. §35-11-301, 302 *et seq.*, and water quantity including groundwater to the State Engineer. Wyo. Stat. §41-2-114, 119, 41-3-902, 41-3-903. WDEQ has established water quality standards but no protocols or criteria for monitoring.

The *Rev’d.* DSEIS includes ephemeral or intermittent channels as waters of the United States. *Rev’d.* DSEIS App. 4-13. The definition of ‘waters of the United States’ needs to be revised to conform to more recent Supreme Court decisions and EPA guidance. Jurisdictional waters of the United States do not include waters lacking interstate nexus, *e.g.* dry ephemeral drainages. *Rapanos v. United States*, 126 S. Ct. 2208 (2006); Clean Water Act Jurisdiction Following the U.S. Supreme Court’s Decision in *Rapanos v. United States & Carabell v. United States*, EPA (June 5, 2007). Ephemeral and intermittent streams in the project area often lack the requisite nexus and the *Rev’d.* DSEIS cannot assume that all of the streambeds are waters of the United States.⁴

The PAWG Charter reflects its authority to monitor and ensure implementation of the identified mitigation and reclamation criteria adopted in the ROD. PAWG 2006 Charter, ¶8 (“Duties may include providing advice and recommendations concerning: (1) the setting of goals and objectives for the monitoring of field development, (2) the drafting of monitoring plans needed to validate predictive models used in the Environmental Impact Statement (EIS), and (3) the effectiveness of the mitigation measures contained in the ROD for the Pinedale Anticline EIS. The PAWG will provide advice and recommendations on these matters to the BLM, but the final decisions will be made by the BLM.”)

Ironically, of all of the PAWG task groups, the Water Resources Task Group is the most active. It meets regularly, while the wildlife and air quality groups last met in 2004.

⁴ Wyoming law uses the same definition and must also be adjusted to reflect the revision.

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Comment 5.5 Discovery of water pollution supports validity of monitoring plan

SCCD identified TPH and other pollutants in the ground water as a result of its monitoring efforts in 2006. The wells were all sampled in 2006 and 2007 and the results were discussed at the 9-25-07 meeting, which included the presentation of the Groundwater Monitoring report. BLM has praised the work.

The Task Group minutes report that after WDEQ asked that all water supply wells in the Anticline and the Jonah be tested. Of the wells detecting hydrocarbons, only three exceeded the safe drinking water standards. "The fact that the SCCD caught the presence of hydrocarbons in these water wells indicates that the monitoring and reporting system is functioning as designed." Water Resources Task Group Minutes, 9-25-07 p. 2.

The Water Resources Task Group amended its procedures to require TPH testing for all wells at the same September 25, 2007 meeting. *Id.* at p.3

Comment 5.6 Aquifer Drawdowns Unknown

The *Rev'd.* DSEIS also indicates that BLM will evaluate possible drawdowns in the aquifer. *Rev'd.* DSEIS 4-103. Groundwater is under the jurisdiction of the State Engineer Office. The discussion regarding the issue of drawdown and aquifer recharge does not support the premise that there is a material issue. *Rev'd.* DSEIS §3.15.1.4. Operators reuse as much the water as possible. *Rev'd.* DSEIS at 4-99-101.

The theoretical model discussed in Appendix 19 concluded: "It is emphasized that these predictions of drawdown assume no vertical recharge, and even very small infiltration would substantially reduce these impacts and the recovery time." *Rev'd.* DSEIS App. 19-5.

BLM needs to work with the State Engineer's Office with respect to aquifer use and overall impacts. The *Rev'd.* DSEIS assumes that all of the aquifers are connected to surface water systems, when other discussions of the aquifer geology in the *Rev'd.* DSEIS clearly state that much of the water is not connected.

Comment 6 Liquids Gathering System Needs to be Fully Discussed and Analyzed

Comment 6.1 Liquids gathering system expansion is a connected action

The liquids gathering system is a connected action that will only occur as a result of additional development and identified mitigation program. Under the CEQ rules, the *Rev'd.* DSEIS

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needs to discuss this related action as well. 40 C.F.R. §1508.27(b). If it is to be considered as part of the mitigation of impacts then the *Rev'd.* DSEIS must expand the facts relating to the pipeline and its environmental impacts.

The *Rev'd.* DSEIS introduces the idea of expanding the current liquids gathering system by Questar to mitigate adverse environmental impacts relating to use of roads, air quality and truck traffic, especially relating to hauling of water. *Rev'd.* DSEIS 1-9, 4-34, 4-82, 4-85. In some parts of the *Rev'd.* DSEIS it is a possible future action and elsewhere it is an Operator-committed action.

The *Rev'd.* DSEIS does not identify the location, number of miles, or related impacts of the liquids gathering system. The proposed liquids gathering pipeline system is said to reduce these environmental impacts. The construction will, however, cause additional adverse environmental impacts in the form of surface disturbance, noxious weed opportunities, visual quality impacts, and nonpoint source water pollution due to the surface disturbance and construction. The *Rev'd.* DSEIS does not discuss these additional environmental impacts or whether these impacts too must be mitigated.

The construction of additional liquids gathering systems to reduce truck hauling within the project area is relevant. It affects traffic, air quality, and water quality. *Rev'd.* DSEIS needs to be revised to address same. *See Rev'd.* DSEIS 4-34.

Comment 6.2 Liquids gathering system incorporated into transportation plan and mitigation plan

The *Rev'd.* DSEIS, Appendix 5, incorporates the proposed liquids gathering system into the preferred alternative transportation plan. *Rev'd.* DSEIS, App. 5D 1-26. But the *Rev'd.* DSEIS discussion of these pipelines does not evaluate the truck hauling of produced water outside of the project area, use of county and state roads, and related impacts on air quality, water, and particulates. The *Rev'd.* DSEIS does not address the capacity of the existing produced waste water systems to handle the water from expanded development, the adequacy of the existing treatment facilities, or the need for additional facility.

The *Rev'd.* DSEIS correctly states that some produced water can be treated and reused. *Rev'd.* DSEIS at 92. Other produced water, even if treated, cannot be reused. Regardless the waste products from treatment must still be disposed of. The additional and relevant information regarding the capacity of existing facilities, the need to build an additional facility, should be addressed in the *Rev'd.* DSEIS.

Comment 7 Grazing Mitigation Measures Insufficient

The *Rev'd.* DSEIS Alternative D identifies mitigation measures for livestock grazing. *Rev'd.* DSEIS §4.17.5 Grazing Resources Additional Mitigation Opportunities. They are insufficient or not responsive. All of the mitigation measures are set out as possible, without any requirement that they actually occur. Thus, they are not actually mitigation measures, just possible actions. The *Rev'd.* DSEIS fails to identify how these measures might be funded. BLM range funds are very limited (less than \$10 million a year or not less than half of the grazing fees received to be allocated among the western states, , 43 U.S.C. §1904). BLM staff lack the time to prepare the NEPA document and other program priorities override the grazing program.

Comment 7.1 Stock driveway Protection

Grazing Resources Mitigation Measure 1. **Operators will be precluded from construction within the Green River Stock Drift, a stock driveway, including 200-feet on either side of the disturbed area** ~~A 100-foot buffer of no surface disturbance on either side of the stock drift~~ as shown in Map 4.17-1 ~~could be imposed~~ to ensure adequate areas for unimpaired movement of stock.

The Green River Stock Drift is a stock driveway which is an R.S. 2477 right-of-way. This route was established by use on unreserved public lands, thus making it a public right-of-way. *Southern Utah Wilderness Alliance v. Bureau of Land Management*, 425 F.3d 735, 776 (10th Cir. 2005). The concept of a buffer is sound but it also needs to be wide enough to accommodate the number of livestock actually using the driveway. Parts of the route are narrow where it runs through subdivisions but it widens elsewhere. BLM would not approve a well within a county right-of-way and so it cannot approve a well within the stock driveway either.

Comment 7.2 Structural improvements: water development and fences

Grazing Resources Mitigation Measure 2. On-site and off-site stock water facilities ~~will could~~ be developed throughout the 16 affected grazing allotments to aid in directing stock use to appropriate areas, especially along the west side of the Mesa. **Funding will be from the Operators or the Mitigation Fund.**

Grazing Resources Mitigation Measure 3. Wildlife friendly cross-fencing could be established, on either a short- or long-term basis in allotments identified as focal areas in the cumulative disturbance section to protect livestock. **Well pads and**

other hazardous sites will be fenced. Funding will be provided from the Mitigation Fund.

SC & SCCD support Measures Nos. 2 and 3, to build fences and develop additional water to improve livestock distribution. Cattle suffer harm and even death when they fall into trenches or evaporation pits. It is reasonable to fence these hazards. , The *Rev'd.* DSEIS needs to specify that the Operators will pay for the projects. The BLM range improvement fund budget is very limited and range projects are often delayed due to the combination of lack of funds and personnel to complete the NEPA review.

The *Rev'd.* DSEIS also needs to provide that these projects will be considered mitigation, even if they do not directly or primarily benefit wildlife. They will mitigate impacts on vegetation, soil, and water and thus provide compensatory resources within the project area (onsite compensatory mitigation).

Comment 7.3 Compensation for Operation Disruption & Stock Losses

Grazing Resources Mitigation Measure 4. Operators **will compensate ranchers could voluntarily agree to compensation** for stock death loss **due to directly associated with well field activities.**

Rev'd. DSEIS 4-125-126.

In the case of compensation for death of livestock, the Operators are legally required to compensate the livestock owner. Moreover, the compensation needs to reflect the value of that animal to the ranch operation, rather than the market price per pound on the date of death.

Comment 7.4 Compensation to adversely affected operators

Grazing Resources Mitigation Measure 5. **To limit disruption, Operators will could provide forage mitigation in the form of alternative pasturing, supplemental feeding, and or with the consent of the livestock permittee, direct compensation for non-use within the allotment. All non-use will be considered to be for conservation of the resources and not subject to any time limit. other approved methods especially if the option for a livestock permittee to take non-use within an allotment would be beneficial.**

SC & SCCD also support compensation in the form of alternative pasture for the livestock or direct compensation to take non-use. Supplemental feeding is prohibited unless there is special approval. 43 C.F.R. §4140.1(prohibited without proper authorization). Providing alternative pasture

GR-5 LA-1-34 GR-6 LA-1-35 GR-7 LA-1-36

GR-7
LA-1-36

can be problematic, unless it is tailored to the operation of the affected ranch and would not displace an existing active ranch.

Comment 7.5 Involvement of landowners and permittees in annual meetings

AP-1

LA-1-37

The *Rev'd.* DSEIS only provides for annual meeting participation by Operators, federal, state and local government agencies. *Rev'd.* DSEIS 2-19. The livestock operators and other landowners need to be involved in the annual meetings. Otherwise, there will be little if any notice of the impacts on their livestock operations and no opportunity to adjust. Because the meetings involve the Operators, there should not be any FACA issue that precludes their involvement.

The Operators should also identify a contact person that will be responsible for notifying affected grazing permittees. This would allow the permittees to call a single individual if an issue arose.

Comment 7.6 Revise Appendix 4 to conform to above measures

GR-8

LA-1-38

The *Rev'd.* DSEIS, Appendix 4, limits mitigation for grazing to “All range improvements (stock water tanks, pipelines, corrals, etc.) should be avoided by 500 feet unless no other alternative is available and impacts can be mitigated as per the BLM Authorized Officer.” *Rev'd.* DSEIS App. 4-14. This omits mitigation regarding impacts on forage, vegetation, stock driveways, and livestock collisions.

Comment 7.7 Mitigation does not have threshold for agriculture impacts

GR-9

LA-1-39

The *Rev'd.* DSEIS focuses on the number of AUMs related to the number of acres disturbed. *Rev'd.* DSEIS at 3-103 to 3-106. The *Rev'd.* DSEIS also needs to quantify the impacts on livestock operations. Most of the grazing allotments are used in May and June, which coincides with the peak of construction and drilling, notwithstanding provisions for year-round oil and gas operations.

GR-10

LA-1-40

The *Rev'd.* DSEIS does not address how traffic might interfere with livestock herding onto and off the allotments or through pastures, or how construction through an allotment will disrupt pasture movements and herding. These are significant impacts because the construction and related traffic will require each operator to spend more time and money keeping livestock out of harm’s way and in their prescribed pasture. BLM imposes potentially severe penalties when livestock movement does not follow the prescribed grazing plan.

Comment 8 Terminology**Comment 8.1 Avoid**

The *Rev'd.* DSEIS uses the term avoid frequently but does not define it in the Glossary. In September 2007, BLM adopted common definitions. IB Wyo 2007-29. The definition for avoidance or avoidance area is:

Avoidance/Avoidance Area – These terms usually address mitigation of some activity (i.e., resource use). Paraphrasing the CEQ Regulations (40 CFR 1508.20), avoidance means to circumvent, or bypass, an impact altogether by not taking a certain action, or parts of an action. Therefore, the term "avoidance" does not necessarily prohibit a proposed activity, but it may require the relocation of an action, or the total redesign of an action to eliminate any potential impacts resulting from it.

This definition should be included in the *Rev'd.* DSEIS, Glossary. In other places, the *Rev'd.* DSEIS uses the verb prohibit.

Comment 8.2 Conservation Easements

Appendix 9D identifies the purchase of short-term conservation easements as one mitigation measure for wildlife habitat. App. 9C-6-7 (Alt. D). The *Rev'd.* DSEIS misuses the term. Under the Internal Revenue Code, §170(h), a conservation easement qualifies for income tax deductions only if it meets certain criteria, including a grant in perpetuity. If the plan contemplates paying a landowner for a stated period of time to retain his land for wildlife habitat needs, then the plan needs to say so. This is entirely different from a conservation easement that qualifies the landowner for significant income tax advantages.

Comment 9 Sage Grouse Management Issues**Comment 9.1 Feasibility of avoidance**

The *Rev'd.* DSEIS calls for avoidance of sage grouse habitat (leks and brooding areas). *Rev'd.* DSEIS 2-14. This requirement appears to be difficult to implement if the map of sage grouse habitat is overlaid with the planned core development areas. *Rev'd.* DSEIS 2-16; *Compare* Map 2.4.8, 3-40, Map 3.22-4, 3-130, 3.22-5, 3-133. If avoidance means relocate or redesign, this may not be feasible in the core areas. It is often not possible to relocate a well, especially if most if not all

of the core development area is sage grouse habitat. The plan of development calls for concentrated land uses based on the assumption that habitat elsewhere in the project will be protected. But if avoidance to protect the sage grouse means relocate the well pad, then it is not clear that it will be feasible to reconcile these two requirements.

Comment 9.2 Sage grouse management

Over the last four years, BLM has issued specific sage grouse management in Wyoming, IM Wyo-2004-054, national guidance, IM 2005-024, and the State of Wyoming has developed conservation plans. *Upper Green River Basin Sage-Grouse Conservation Plan* (May 24, 2007). The *Rev'd.* DSEIS does not address these additional guidance, although the Wyoming and the national IMS are expired and the most recent conservation plan, while not contradictory, is not identical either.

SC & SCCD recommend clarifying the guidance and the source. The upcoming status review of the sage grouse, which is due December 2008 will also affect the conservation measures and is relevant to the *Rev'd.* DSEIS.

Comment 9.3 Reduce predation by reducing garbage and litter

The *Rev'd.* DSEIS omits an important opportunity to reduce predation on sage grouse by reducing garbage and litter. For instance, the *Rev'd.* DSEIS requires notice of prohibitions to all personnel and vendors. *Rev'd.* DSEIS App. 5D-3, ¶18. It omits any prohibition regarding litter and garbage, except for pipeline construction. *Rev'd.* DSEIS App. 6-4.

One of the standard measures should be garbage and litter reduction efforts. Litter and garbage attract predators and provide additional food for them. This only increases predator numbers that prey on sage grouse.

Revise Appendix 4-16 to include litter prohibition and requirement to cover dumpsters. The *Rev'd.* DSEIS needs to address the fact that the county landfill is already overtaxed.

Comment 10 Clarification in Appendices

Comment 10.1 Stipulations re soil.

The *Rev'd.* DSEIS states “Stipulations and mitigating measures are provided on a case-by-case basis to ensure soil conservation and practical management.” *Rev'd.* DSEIS App.4-5.

S-1
LA-1-46

Lease stipulations cannot be changed so the term stipulation is confusing. Revise *Rev'd.* DSEIS to use term "best management practice" or condition.

Comment 10.2 VRM Changes

The *Rev'd.* DSEIS

Avoid the introduction of new, linear visual intrusions on the landscape. New roads and pipeline corridors, to the extent practicable, would follow contours and use topography as screening. New pipelines would be combined with existing or proposed roads and, wherever possible, new cross-county pipeline corridors would be avoided.

Rev'd. DSEIS App. 4-21.

The discussion imposes VRM Class II criteria, without regard to whether the lease stipulations. Unless the lease stipulation provides for VRM Class II, BLM cannot impose the criteria. As written description blurs the differences.

Comment 10.3 Traffic counts

Rev'd. DSEIS Appendix 5 calls for hosted workers to count traffic, without explaining the need for a person rather than traffic counter. *Rev'd.* DSEIS App. 5D-2.

Comment 11 Social and Economic Issues

The *Rev'd.* DSEIS uses IMPLAN™ to estimate the effects of increased economic activity in the oil and gas, and related sectors. Based on the number of wells drilled and production per well the *Rev'd.* DSEIS can estimate employment over time. Because the oil and gas industry employs permanent and temporary labor, to understand and estimate socio-economic effects, it is important to determine the percentage of labor that will remain in the area. In this way, employment is directly related to population growth. The *Rev'd.* DSEIS appears to recognize this and the significance to counties of accommodating the increasing population.

While the *Rev'd.* DSEIS recognizes the importance of this issue, it does not calculate the measurable effects on housing and services. To estimate the socio-economic consequences of increased economic activity, the *Rev'd.* DSEIS needs to compare the costs and benefits of growth. This includes estimating the increases in demand for housing based on population estimates, and comparing it with existing services identified in Chapter 3. Because the *Rev'd.* DSEIS measures the effects of the population and has a full inventory of services and capacity, it is possible to estimate

LA-1-47

V-1

T-9
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SE-1

demand shortfalls, and surpluses. Demand for housing and services could then be compared with the costs of increasing services or expanding capacity.

Because the *Rev'd.* DSEIS estimates taxes and how they are distributed, it would be possible to assess revenue shortfalls. It is important to note that increased economic activity will directly and indirectly generate jobs and increase revenues through increased taxes and severance payments. While not all effects will be negative, to identify and mitigate potential problems, it is necessary to understand what the net effects will be.

Comment 11.1 Recommendations

To mitigate negative effects from growth, it is necessary to calculate net costs and/or benefits. The BLM should use the population projections developed in Chapter 4, to estimate effects to the counties based on current service and housing levels identified in Chapter 3. Where net effects are negative, the BLM could identify potential solutions to avoid such effects, or to reduce the impact. The following are areas with potential impact:

- Housing demand and supply: Estimate the type of housing needed as compared to workforce demographics (workforce: temporary, permanent; housing needs: multi-family, single unit, work camp)
- Demand for education: Using population estimates, calculate the projected increases/decreases for K-12 education including enrollment capacity and increased demand for infrastructure and staffing.
- Emergency, medical, and civic services: Using the per capita ratios calculated in Chapter 3, the BLM, could estimate the increased demand and costs for services, based on population estimates. This may entail estimating the increased demand for staffing and physical facilities based on current capacity.
- Bus crews for all services year round to reduce risk to local traffic, to relieve tired workers, and to reduce the number of vehicles on roads.

Comment 11.2 Work force estimates inconsistent

The *Rev'd.* DSEIS assumes that the production work force will remain the same throughout the life of the project. *Rev'd.* DSEIS 2-61. Other data in the *Rev'd.* DSEIS assumes the work force will decline 2009 to 2026 from 381 to 0. These are inconsistent and unrealistic.

Comment 11.3 County housing demand understated

Due to the inconsistencies in work force estimates, the housing demand in the area is understated. If there are more workers during the production phase, then housing demand will remain higher than shown.

Comment 12 Resubmitted Compensatory Mitigation Comments

SC & SCCD previously commented that to be effective mitigation, the compensatory mitigation should address conservation of soil, water, and vegetation, rather than focusing solely on wildlife habitat. The compensatory mitigation plan set forth in Appendix 9 continues to suffer from significant omissions.

The SC & SCCD comments are resubmitted because they remain equally valid. The mitigation measures set out in the *Rev'd*. DSEIS do not address impacts on vegetation, soil and water as well as livestock grazing operations. These are environmentally significant gaps in the existing mitigation plan and measures discussed in the *Rev'd*. DSEIS. Whenever a cooperating agency's comments identify additional mitigation measures, the agency must consider them and, if not adopted, must explain the reason for not doing so. 40 C.F.R. §1503.3(d). For the PAPA *Rev'd*. DSEIS, the cooperators identified several mitigation measures to address a number of affected

SE-4
LA-1-52

G-10
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SC & SCCD Resubmitted Comments		
§	Page	Comment & Explanation:
		Changes Explanation
1.		<p>SC & SCCD comments focus on opportunities to ensure that the local governments are not foreclosed from their respective jurisdictional responsibilities and that the local governments can use the opportunities to ensure the conservation of all public and resources, and preservation of other land uses. SC & SCCD proposes that SCCD become a full participant in the “in lieu fee mitigation” plan proposed to address elements not fully covered in the current mitigation plan. <i>See</i> Appendices 9, 10, and 11. SCCD has conservation jurisdiction over all land ownerships, with specific expertise in site potential, water quality, and vegetation. These elements make up wildlife habitat but also provide resources critical to other land uses, including livestock grazing, municipal watersheds, and recreation. These elements are not addressed directly in the current draft.</p> <p>The objectives of SC & SCCD can best be described as providing a framework for a locally-led incentive-based and effective conservation projects that will be directly applied to the land, including public, private and state lands. These projects would include multi-year conservation agreements with landowners to install projects to improve vegetation, soil, and water quality to aid in conservation of land resources over multiple land ownerships.</p> <p>The SCCD would be the lead local government agency responsible for this effort. The SCCD is authorized by state law to undertake this work and is prepared to do so.</p>
.		<p>The following comments identify where the narrow focus of mitigation should be broadened to include public land resources and other public land uses. As it is written, mitigation is almost entirely limited to wildlife and wildlife habitat. This is not consistent with NEPA obligations and is not responsive to the issues raised.</p>

SC & SCCD Resubmitted Comments			
§	Page	Comment & Explanation:	
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2.4.3 .5	2-52		<p>Research and inventory of habitat and vegetation are not mitigation in the sense of reducing the impacts. SC & SCCD note that mitigation funds are better spent in conducting Level III soil survey, which is best way to determine site potential.</p> <p>Much of the wildlife mitigation focus is on antelope and mule deer.</p>
			<p>Discussion omits triggers for off-site mitigation, which are required. Earlier comments from WGF D suggest that a reduction of deer or antelope in a development area over 2-year period requires off-site mitigation. Instead, SC & SCCD recommend research to determine where the antelope go, what is the status of Research in other gas fields shows that wildlife return to former habitat and that they become accustomed to non-threatening human activity. Alternative hypotheses should be analyzed.</p>
			Add vegetation and land use triggers
2.2.1	2-1	<p>Need to see better coordination with local governments with respect to transportation, law enforcement, and better understanding of limited funding to local governments that must address the impacts of development.</p>	<p>These issues were identified by the local government cooperators.</p>

SC & SCCD Resubmitted Comments			
§	Page	Comment & Explanation:	
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2.2.2	2-1 - 2-2	The effects on livestock operators and private landowners by wildlife displaced due to development in the PAPA should be evaluated both on and off-site, and mitigation should be proposed and coordinated with land owners and the conservation district.	SC & SCCD commented on need to coordinate with local governments and landowners with respect to mitigation. The description of the issue omits the coordination part and unfortunately the mitigation plan only includes WGFD concerns.
2.4.3 .5	2-52	Expand details regarding Mitigation Fund and revise as necessary to conform to guidelines and SC & SCCD proposal.	Insufficient information is provided to effectively comment. In lieu-fee mitigation is authorized but the specific circumstances that are not clearly met. App. 9, Alt. D does not conform to guidelines.
			SEIS states mitigation is also for agriculture this is not carried through in the mitigation plan discussions. SC & SCCD support agriculture mitigation but as explained below, significant changes are necessary in the mitigation program to meet this objective.
2.4.3 .3	2-45		The SEIS does not explain how operators can comply with sage grouse restrictions and still develop year-round. The sage grouse habitat map for the Pinedale RMP demonstrates that virtually all of the DA's are within a lek 2-mile buffer. Pinedale RMP DEIS Map 2-36. This may be very controversial.
2.4.3 .5	2-52	Projects to improve vegetation, protect soil and water resources, and address impacts to agriculture.	As noted in Comment ##, 5, 10, agriculture is omitted from the mitigation plan and fund and needs to be a significant aspect of it.

SC & SCCD Resubmitted Comments			
§	Page	Comment & Explanation:	
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		CONSERVATION AND WILDLIFE & HABITAT MITIGATION PLAN FOR WILDLIFE, WILDLIFE HABITAT, AND OTHER LAND USES	SC & SCCD recommend renaming the plan to encompass mitigation for other land uses, particularly agriculture.
App 9A	9A-4		USFWS only regulates takes, which are defined as nest destruction, loss of eggs, and killing of a bird. USFWS does not regulate habitat under Migratory Bird Treaty Act. The bald eagle was delisted, 72 Fed. Reg. 37436 (2007). Since there is no BLM USFWS MOU implementing Executive Order 13186, SC & SCCD recommend a more refined role for USFWS.
App. 9A	9A-6	" Each year, the specific areas of concentrated activities will be determined through joint review of Proponent development plans. The Proponents (combined or separate as appropriate), BLM, SC & SCCD and WGFD will work to reach agreement on the final plans as early in the calendar year as possible to allow sufficient time to plan, permit, and execute new construction as required in the summer months for the next activity year.	As explained in previous comments, SC & SCCD are the two entities with significant jurisdiction and responsibilities and should be part of the annual monitoring meetings. Given the impacts on local services, SC & SCCD must insist on it.

SC & SCCD Resubmitted Comments			
§	Page	Comment & Explanation:	
		Changes	Explanation
App. 11	11-5	" Each year, the Proponents will collaborate as appropriate seeking opportunities to adjust the size of the areas required for concentrated activities and reduce impacts. The Proponents, BLM, SC & SCCD , and WGFD will jointly seek improvements to the annual and 10-year development plans designed to further reduce potential project impacts	<i>See above comment.</i>
App. 9	9A-7	4. Avoid disturbance potentially disruptive activities or permanent above ground structures in the bald eagles' direct flight path between their nest and roost sites and important foraging areas	Replace disruptive activities with Bald and Golden Eagle Protection Act definition of "disturb." The broad definition of disruptive activities does not conform to the definition of disturb, which requires concrete disruption of life cycle activities.
App. 9	9A-7	" Impacts will be mitigated by developing coordinated mitigation approaches with the BLM, SC & SCCD , WGFD, and other federal and state agencies to seek opportunities to further benefit wildlife and to address related impacts on soil, vegetation, and water.	Mitigation should not be limited to wildlife.
App. 9	9A-7		SC & SCCD support liquids gathering system but need BLM to agree to disposal on public lands for treated water. The cumulative impacts of limiting disposal to private lands are significant.

SC & SCCD Resubmitted Comments								
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App. 9	9A-8	The Proponents would support formation of a dedicated multi-agency management team to plan and implement the mitigation plan elements, including permitting, monitoring, research, and projects to improve soil, vegetation, and water quality, and wildlife habitat elements mitigation, and reclamation activities . This will benefit both the Proponents and agencies by streamlining the mitigation plan development process, providing continual focus on plan implementation, and providing coordination and cost-efficiencies with other adjacent developments that could impact some of the same animals, land uses , and habitats impacted by this project.	Confusing as written, appears to delegate project permitting and reclamation to this agency. BLM cannot delegate permitting and project proponents are liable by law for reclamation. Onshore Oil and Gas Order No. 1, IIID.4.j, XIIB, 72 Fed. Ref. 10308 (2007). They may outsource but cannot delegate to a quasi-governmental agency established to implement mitigation. Or put another way, reclamation is not mitigation, it is an independent legal obligation.

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App. 9	9A-8	The Proponents will commission and fund a resource habitat inventory of the PAPA. The resource Habitat inventory data will be used for development, reclamation, conservation of public land resources , and potential habitat improvement planning for key habitats and habitat components. Habitat improvements may be applied in important habitats to restore degraded or lost habitat functions.	Habitat inventory is too limiting. The mitigation plan needs to inventory soil, water quality, vegetation in order to best identify management and mitigation issues. Habitat would appear to look at wildlife use, rather than the underlying resources. SC & SCCD believe a Level III soil survey should be part of inventory in order to help determine site potential and work within that site potential.
App. 9	9A-9	In order to The Proponents will promote communication with other stakeholders as mitigation objectives and approaches are being developed, the Proponents will support authorizing SCCD to participate as a team leader in conducting resource inventories and designing, and approving projects to enhance resources, specifically vegetation, water quality, and soil conservation. Specific wildlife and habitat mitigation objectives and actions should, as much as possible, be designed to minimize impacts to other important area resources (e.g., livestock, recreation, visual resources).	

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App. 9	9C-1							

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App. 9	9C-2	Proponents will request a lease suspension in the interest of conservation offer to voluntarily suspend for a time-limited period or commit to time-limited NSOs on certain leases or acreage in the flank areas of the PAPA. This voluntary commitment ensures a significant portion of the flanks of the PAPA will be available as undisturbed habitat for wildlife and limit impacts on current land uses, including recreation and livestock grazing.	
App. 9	9C-3	11. The Proponents will work with SC & SCCD to identify voluntary opportunities to conserve and/or improve natural resources in the area to promote a positive land ethic. Maintain adequate buffer from riparian areas habitats where possible (outside edge of trees as area of effect). Buffers would be site specific depending on vegetation and topography. They will be developed in coordination with qualified professionals, biologists, SCCD , the USFWS and/or the BLM as necessary. Proponents will strive to conserve potential nesting, roosting and foraging habitat whenever possible by retaining mature trees and old growth stands wherever possible, particularly within 0.5 mile of water.	Mitigation is not limited to biology. Most of the prime riparian habitat is on private land, where SCCD has jurisdiction.

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App. 9	9C-4	All activities will be conducted in such a manner that minimizes impacts on public land resources , wildlife, habitat, other land uses , including agriculture , and the local communities.	
App. 9	9C-5	Proponents will coordinate with landowners and livestock grazing permittees where development displaces the operator or disrupts operations.	
App. 9	9C-5	In cooperation with SC, t The Proponents' implementation of a road management plan, which voluntarily restricts their activities to existing roads where possible, will reduce surface disturbance and expansion of human disturbance into new areas and will lessen road mileage by 70% as compared to traditional single-well pad development. Road management plan will also address limiting adverse impacts to soil, air, and water, as well as coordinating with existing county road system, maintenance or upgrading of existing roads.	Sublette County has jurisdiction over county roads and should be recognized as such.

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App. 9	9C-5	The Proponents (combined or separate as appropriate), BLM, SC & SCCD and WGFD will work to reach agreement on the final plans as early in the calendar year as possible to allow sufficient time to plan, permit, and execute new construction as required in the summer months for the next activity year.	The local governments need to be involved directly in coordinated construction plan
App. 9	9C-5		Add SC & SCCD to this paragraph as well..
App. 9	9C-6	Impacts will be mitigated by developing coordinated mitigation approaches with the BLM, SC & SCCD , WGFD, and other federal and state agencies to seek opportunities to further conserve public land resources that will benefit land uses, including agriculture and wildlife.	
	9C-6	Key resources, including vegetation, soil, and water that contribute to habitats and habitat components, such as crucial winter ranges, migration routes, sage grouse seasonal habitats, and identified sensitive species habitats, will receive first consideration for mitigation.	The focus is on wildlife use rather than on soil, water and vegetation. SC, SCCD, and WGFD are all committed to conservation. The“first consideration” should be the resources, because if soil, vegetation, and water quality meet potential, then the wildlife habitat will be healthy.

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App. 9	9C-6	address the land uses and same animals or species that are being impacted address the same resource elements and land uses habitat components that are being impacted	
App. 9	9C-6	Proponents commit to the agreed upon wildlife monitoring and mitigation matrix with performance based objectives and sequential outcomes. The matrix was agreed to among the Proponents, the Governor of Wyoming and the WGFD. Please see Appendix 11 to the Revised Draft SEIS.	Because the local government cooperators were excluded from the development of the matrix, and because it is narrowly focused on just wildlife habitat, it should not be a mandatory part of the preferred alternative. The limited focus of the mitigation matrix is also inconsistent with NEPA since it ignores a host of other impacts as well.
App. 9	9C-6 - 9C-7	The Proponents commit to developing a comprehensive off-site mitigation plan within one year of SEIS ROD release. Options that may be included in the plan are conservation projects to be implemented by SCCD that will establish a framework for locally-led incentive based projects to encourage effective conservation , enhancing habitat on land contiguous to the PAPA and acquisition of property right (leasehold interest, short-term or long-term conservation agreements, easements, etc.) designed to set aside habitats, protect key migration routes and preserve open space.	

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App. 9	9C-7		The purpose of the fund contribution needs to include all conservation, not just wildlife.
App. 9	9C-7	The funds referenced in this correspondence are aimed at mitigation and monitoring activities and specifically targeted to funding mitigation as required to address identified land use and resource impacts, as well from the wildlife monitoring and mitigation matrix. It is impossible to accurately predict what types of actions would warrant the use of these monies, but compliance activities do not fit the intended purpose of the fund.	As written, language precludes use of funds to mitigate impacts on other land uses. This does not meet NEPA objectives of mitigating all impacts, rather than just one.
App. 9	9C-7	Add word “conservation and”	Mitigation should not just be about wildlife and wildlife habitat.
App. 9	9C-7	Off-site mitigation will generally be implemented if on-site actions are not considered adequate, or if off-site measures are considered to be of significantly greater value.	Conform to IM 2005-69.
App. 9	9C-7	Off-site mitigation that occurs farther away would provide a key year-round life requirement for the animals that occupy the development area during part of the year	<i>See</i> Comment #26. This prejudices off-site mitigation.

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App. 9	9C-7		<i>See Comments #28-30.</i>