



*Working to Protect Native Species and Their Habitats*

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May 14, 2008

Director Jim Caswell  
Attn: Brenda Hudgens-Williams  
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Dear Director Caswell:

We are sending you this letter to notify you of significant new information regarding the Rawlins RMP EIS process, which should be addressed by BLM through the NEPA process. This new information is of the type that specifically requires supplemental NEPA or additional NEPA analysis through the Great Divide RMP revision/Rawlins RMP drafting process. Specifically, we have attached the formal designation of the Adobe Town area as 'Very Rare or Uncommon' by the Wyoming Environmental Quality Council ("EQC") pursuant to the state Environmental Quality Act. This designation constitutes a policy or plan that triggers FLPMA's consistency requirements regarding the plans and policies of state and local governments, and BLM was notified of the pending designation by Governor Dave Freudenthal during his consistency review of the Final EIS for the Rawlins RMP.

The outer boundary of the Very Rare or Uncommon designation encompasses 180,910 acres of land including both the Adobe Town Wilderness Study Area and surrounding lands proposed for wilderness protection by citizens' groups; private lands within the designation boundary were excluded from the protective designation.

The Very Rare or Uncommon designation restricts non-coal surface mining, including oil shale and uranium. Despite comments sent to BLM during the Rawlins RMP EIS process requesting the withdrawal of this area from mineral entry, none of the alternatives would have taken such measures.

In qualifying Adobe Town as 'Very Rare or Uncommon,' EQC cited wildlife values (specifically raptor nesting habitat, mule deer crucial winter range, sage grouse leks, mountain plover nesting

areas, and migratory songbirds not found elsewhere in Wyoming), scenic resources (particularly pinnacles and spires and vistas from the Skull Creek Rim, which lies within the current Wilderness Study Area), geological resources (particularly fossil resources), and/or historical resources (including archaeological sites), **and** concluded that these resources are very rare or uncommon within the state. All areas petitioned were found to possess these very rare or uncommon attributes. *Id.* at 19.

The Very Rare or Uncommon attributes correspond exactly to the relevance and importance criteria for ACEC designation in many cases. For instance, “wildlife values” in the EQC regulations correspond to “a fish and wildlife resource” as defined by BLM ACEC policy; “historical, archaeological, ... and scenic values” in EQC regulations correspond exactly to “a significant historical, cultural, or scenic value” in BLM policy. See Attachment at 15; BLM Handbook H-1613.11.A.1. Furthermore, EQC has determined that these qualities are “very rare or uncommon” on a statewide basis, and therefore have “more than locally significant qualities which give [them] special worth, consequence, meaning, distinctiveness, or cause for concern...” under BLM ACEC importance criteria, and, according to EQC, “could become extinct or extirpated if left unprotected,” therefore satisfying the BLM importance criterion “Has qualities or circumstances that make it fragile, sensitive, rare, irreplaceable, exemplary, unique, endangered, threatened, or vulnerable to adverse change.” See H-1613.11.B and Attachment at 19. Thus, EQC as an independent body has made a *de facto* affirmative determination that the Very Rare or Uncommon area as designated meets BLM “relevance and importance criteria for ACEC designation.

In comments on the Rawlins RMP DEIS, BCA and other conservation groups specifically asked BLM to protect the Adobe Town citizens’ proposed wilderness as an ACEC, and the Wyoming Game and Fish Department also recommended Adobe Town for ACEC protections. Yet BLM refused to consider ACEC designation for this area under any alternative. This failure requires redress.

It is important to note that in designating the area as ‘Very Rare or Uncommon,’ the EQC had authority over surface mining, but its authority does not extend to cover oil and gas leasing and development, as this authority resides with the Wyoming Oil and Gas Conservation Commission, a different branch of state government. Attachment at 17. The EQC is legally required to designate all lands that are shown to meet the ‘Very Rare or Uncommon’ criteria. *Id.* While the EQC does not possess the authority to protect lands that have been designated as Very Rare or Uncommon, the BLM itself possesses the authority to protect the Very Rare or Uncommon attributes identified by the EQC from impacts related to oil and gas development through withdrawal of the area from future oil and gas leasing and the imposition of additional protective measures<sup>1</sup> for development on lands already leased. The BLM should not permit activities in the Very Rare or Uncommon area which would extinguish or diminish the features for which these lands were designated for protection by the state.

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<sup>1</sup> These could include requirement of the use of wooden or composite mats for drilling and access roads in lieu of road and pad construction, directional drilling and well clustering to minimize roads and wellsites, below-grade wellheads, and siting well equipment (other than the well tree) outside the sensitive area.

In light of this significant new information, we petition BLM pursuant to 5 U.S.C. § 555(e) to take the following measures to amend the Green River RMP and to correct deficiencies in the Rawlins RMP Environmental Impact Statement:

- (1) Withdraw the area encompassed by the Very Rare or Uncommon designation from non-coal surface mining to maintain consistency with this state policy.
- (2) Withdraw the area encompassed by the Very Rare or Uncommon designation from future oil and gas leasing and impose strong measures to minimize the impacts of oil and gas development on existing leases, in order to exercise BLM's authority over oil and gas development to protect the Very Rare or Uncommon values for which the area was designated by the State of Wyoming.
- (3) Designate the area designated as Very Rare or Uncommon as an Area of Critical Environmental Concern with specific standards and guidelines that preclude any loss or degradation of the values for which the area was designated as Very Rare or Uncommon by the State.

Please provide your response to this petition in writing in advance of the issuance of the Record of Decision for the Rawlins RMP. Thank you for your attention to this issue.

Sincerely yours,

Erik Molvar

Signing on behalf of

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Attachment: Findings of Fact, Conclusions of Law, and Order designating Adobe Town as Very Rare or Uncommon