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October 19, 2006

Ms. Linda Sloan
Casper RMP Project Manager
Bureau of Land Management
2987 Prospector Drive
Casper, WY 82604-2968

**Re: YATES PETROLEUM CORPORATION'S COMMENTS AND
RECOMMENDATIONS TO THE CASPER FIELD OFFICE DRAFT
RESOURCE MANAGEMENT PLAN**

Dear Ms. Sloan:

The following comments and recommendations are submitted on behalf of Yates Petroleum Corporation (Yates). Yates has been leasing and operating in the Rocky Mountain West for over 30 years. Yates appreciates the opportunity to comment on the Casper Field Office Draft Resource Management Plan (Draft RMP).

Yates commends your success in preparing a Draft RMP that is both easy to understand and comprehensive. Some general comments: First, Yates supports the fact that the BLM analyzed five (5) alternatives as opposed to the traditional three or four alternatives. This shows the BLM took a "hard look at this federal action. Yates also supports the reasonably foreseeable development identified under the Preferred Alternative (Alternative E). The BLM has authorized more wells under the Preferred Alternative than under Alternative D the Pro-development Alternative. Finally, Yates supports the flexibility demonstrated in the Surface Disturbance Mitigation Guidelines.

Again, thank you for the opportunity to comment on the Casper Field Office Draft Resource Management Plan.

Respectfully submitted,

Tyler H. Vanderhoef
Wyoming Regulatory Issues Agent for Yates Petroleum Corporation

Copies: Rep. Barbara Cubin; Sen. Craig Thomas; Sen. Mike Enzi; Bob Bennett,
BLM WSO; Lisa Norton, Yates; Janet Richardson, Yates

SURFACE DISTURBANCE MITIGATION GUIDELINES

Page 2-4 *“Oil and gas lease stipulations may be modified or eliminated using the exception, modification, or waiver criteria outlined in Appendix F or through more site-specific environmental analysis. The BLM’s authorized officer could modify those stipulations determined to be either too restrictive or too lenient relative to desired outcomes.”*

Comment: The assumption that BLM can modify stipulations to make them more restrictive is incorrect because it fails to acknowledge that valid existing rights are associated with a lease contract. According to statute and regulation, the agency has no authority to change stipulations or the terms of the lease contract without voluntary agreement from the lessee. Moreover, the agency’s authority to impose conditions of approval on a proposed project is also limited by the terms associated with the issued lease, as directed in 43 CFR 3101.1-2, Surface Use Rights:

“A lessee shall have the right to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold subject to: Stipulations attached to the lease; restrictions deriving from specific, nondiscretionary statutes; and such reasonable measures as may be required by the authorized officer to minimize adverse impacts to other resource values, land uses or users not addressed in the lease stipulations at the time operations are proposed. To the extent consistent with lease rights granted, such reasonable measures may include, but are not limited to, modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. At a minimum, measures shall be deemed consistent with lease rights granted provided that they do not: require relocation of proposed operations by more than 200 meters; require that operations be sited off the leasehold; or prohibit new surface disturbing operations for a period in excess of 60 days in any lease year.”
[Emphasis added]

BLM’s Instruction Memorandum 92-67 further clarifies how valid existing rights are to be honored.

“The lease contract conveys certain rights which must be honored through its term, regardless of the age of the lease, a change in surface management or conditions or the availability of new data or information. The contract was validly entered into based upon the environmental standards and information current at the time of lease issuance..Any application of mitigation to a post-lease operation is subject to State Director Review (SDR), if requested by the operator. Such a review would consider whether the identified impact is considered to be unnecessary and undue degradation. If so determined, the mitigation would be upheld as being consistent with the granted lease rights and within the

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government's reserved authority to mitigate operations. If determined to be necessary and due degradation, the mitigation WOULD NOT be allowed. If the mitigation was developed in an RMP then a plan amendment may be necessary to correct any decisions which infringe on valid existing @easefights."

It is legally required that Valid Existing Rights be honored. Therefore, not only must their acknowledgment be incorporated into the section that outlines Management Common to All Alternatives, but throughout the entire environmental impact statement and the resulting resource management plan as well, including the Glossary.

WATER QUALITY, WATERSHED, SOILS
MANAGEMENT NEGETATION INOXIOUS WEEDS

Paee 2-24 "Like alternatives C and D, the use of pitless technology for oil and gas drilling operations is required when there is potential for adverse impacts to surface water, groundwater or soils.

Comment; The BLM does not have the authority to regulate surface or ground water quality. Additionally, by requiring pitless technology for oil and gas drilling operations, the BLM does not consider the use of lined pits. Similar to pitless technology, lined pits also protect surface water, groundwater and soils. For these reasons, the above language should be amended as follows:

"The use of lined pits or pitless technology for oil and gas drilling operations is recommended when there is potential for adverse impacts to surface water, groundwater or soils."

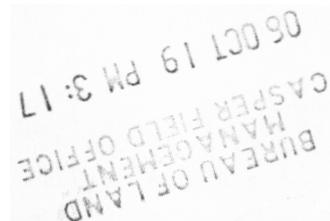
WILDLIFE AND FISHERIES
(SAGE-GROUSE)

General Sage-arouse Comments Relative to Table 2-3 Pages 2-55 through 2-56;
Paee 2-24 AND Paee 3-73

Table 2-3, Panes 2-55 through 2-56

Comments:

1. It is unclear whether the Bates Hole and Fish Creek Willow Creek Areas are one in the same. Based on Table 2-3 and related sections within the Casper Draft RMP, Yates assumes that the Fish and Willow Creek areas are located within the Bates Hole area. Yates requests that the BLM clarify this issue.



2. It is clear the BLM has decided to regulate the Bates Hole and Fish Creek Willow Creek areas differently than the remaining planning area - *The Bates Hole and Fish Creek Willow Creek area has a ¾-mile CSU buffer and a 4-mile timing restriction buffer around occupied Sage-grouse leks and the rest of the planning area has a ¼-mile NSO buffer and 2-mile timing restriction buffer around occupied Sage-grouse leks.* The agency does not, however, provide a reason why these areas should be regulated differently and it does not provide the data to show that a ¾-mile CSU buffer and a 4-mile timing restriction buffer around occupied leks is appropriate. To strengthen and add credibility to the Draft RMP, the BLM should provide this information.
3. Finally, the BLM infers there is a difference between *suitable* and *identified* Sage-grouse habitat. In §4.4.9, however, the agency does not use the word *suitable* to describe protected Sage-grouse habitat. The discussion is limited to *identified* Sage-grouse habitat. To clarify this issue, the BLM should first determine whether it is necessary to distinguish between *suitable* and *identified* Sage-grouse habitat. If it is necessary, the BLM should explain the difference between the two.

Page 2-24

It is clear from the language found on page 2-24 -

“The Bates Hole and Fish Creek Willow Creek area under Alternative E have a ¾-mile CSU buffer for occupied greater sage-grouse leks (20,823 acres of BLM-administered surface and 39,070 acres of BLM-administered mineral estate) to protect breeding habitats. Occupied greater sage-grouse leks also have a 4-mile buffer (190,856 acres of BLM-administered surface and 339,906 acres of BLM-administered mineral estate) where surface development or wildlife-disturbing activities are restricted from March 15 through July 15 (TLS). Surface disturbance is required to avoid (year-round) sagebrush stands (of greater than 10 percent canopy cover).”

that the ¾-mile CSU buffer for occupied greater sagegrouse leks applies only to the Bates Hole and Fish Creek Willow Creek areas. It is unclear, however, where the 4-mile timing restriction buffer applies. Since the 4-mile timing restriction buffer is discussed in the same paragraph as the ¾-mile CSU buffer, Yates assumes that the 4-mile timing restriction buffer similarly applies only to the Bates Hole and Fish Creek Willow Creek areas. To clarify this matter, the second sentence in the above paragraph should be rewritten as follows:

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Occupied greater sage-grouse leks within the Bates Hole and Fish Creek Willow Creek area also have a 4-mile timing restriction buffer (190,856 acres of BLM-administered surface and 339,906 acres of BLM-administered mineral estate) where surface development or wildlife-disturbing activities are restricted from March 15 through July 15(TLS).

Pane 3-73

“The WGFD and the BLM have annually surveyed and monitored greater sage-grouse leks since the 1950s.”

The above language implies that greater sage-grouse leks are surveyed every year. This is not the case. The BLM should clarify when and how greater sage-grouse leks are surveyed.

WATER QUALITY, WATERSHED, SOILS
MANAGEMENT/VEGETATION/NOXIOUS WEEDS

Table 2-3, Record #1033

Comment: The requirement under Alternative E (Preferred Alternative) is the same as the requirement under Alternative C which is to use pitless drilling technology to protect surface water, groundwater and/or soils. The BLM does not have the authority to regulate surface or ground water quality. In addition, pitless drilling technology is expensive, inefficient and cumbersome. Lined pits, on the other hand, are commonly used, less expensive and are designed to protect surface water, groundwater and soils. For these reasons, the BLM should not require Operators to use pitless drilling technology.

SURFACE DISTURBANCE MITIGATION GUIDELINES

Table 2-3, Record #2018

Comment: Under the Preferred Alternative, Record #2018 requires directional drilling on a case-by-case basis. Requiring directional drilling on a case-by-case basis is too subjective. In addition, the application of this technology is technically and economically limited within the planning area. The BLM should remove this requirement from Table 2-3.

HERITAGE RESOURCES

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Page 2-59, Goal HR: **1**, Alternative E: "...except block inventories would be applied when full field development is identified..."

Comment; While block cultural inventories may be realistic in some circumstances, **BLM** must remain flexible in their expectations. For example, spacing requirements may only allow development on 160/80/40 acres which therefore leaves a significant percentage of lands in a project area undeveloped. Requiring block surveys on the entire project area is a significant cost addition to the project and may not fit spacing specifications. This language must be modified to apply block inventories on a case-by-case basis in consultation with the project operator(s).

Page 2-59, Goal HR: 1.1, Alternative **E**: "...except linear inventories would cover a minimum of 100 feet on either side of surface disturbance..."

Comment: **BLM** provides no justification for this change in management prescription requiring linear inventories that would cover a minimum of 100 feet on either side of the disturbance. **BLM** must provide an explanation for this change as it creates additional financial burden on the operator without providing an explanation of benefits or that the current management prescription is not working effectively. This requirement should be deleted and replaced with language that the area to be surveyed for linear inventories be negotiated on a case-by-case basis with the project proponent.

PALEONTOLOGICAL RESOURCES

Page 2-59, Goal HR: **3.3**, Alternatives D & E: "Develop interpretive facilities...at specific localities with high paleontological values on a case-by-case basis."

Comment; It is appropriate for **BLM** to work with other outside groups and organizations to provide interpretive facilities. **BLM** must refrain from requiring industry to develop interpretive facilities as mitigation for oil and gas projects.

NATIONAL HISTORIC TRAILS AND OTHER HISTORIC TRAILS

Page 2-61, Goal HR: 5.3, Alternatives C & E: "The foreground/middle ground of NHTs will be managed as Class II until inventories are completed..."

Comment; **BLM** must provide flexibility in management prescriptions while the inventories for congressionally designated trails are being completed. The integrity of some portions of the trail setting has already been compromised and those areas do not warrant Class II protection.

Page 2-97, SD: 14.1, Alternative E: "NHTs and other Historic Trails Where Setting Does Not Contribute to NRHP Eligibility."

Comment: In the case where trail segments and settings do not contribute to eligibility, Class IV management may be more appropriate than Class III. Again, BLM needs to maintain flexibility in management prescriptions.

Regarding direct surface disturbance to trails, whether they are NHTs or other trails, Yates supports a CSU requirement of avoidance within ¼ mile or the visual horizon, whichever is closer.

Page 2-97, SD: 16, Alternative E: "Where Historic Setting Contributes to NRHP Eligibility."

Comment: To protect all trails with the same status as a congressionally designated trail is unacceptable. Furthermore, the protection of all trails from the foreground (3 miles) to the middle ground (5 miles), as defined in the glossary, is excessive and unsupported. BLM must provide flexibility for VRM management prescriptions while the trail inventories for congressionally designated trails are being completed. The integrity of some portions of the trail setting has already been compromised and those areas do not warrant Class II protection.

Yates supports the Class II protection of congressionally designated trails within the 2 miles IF the segments and settings are pristine in nature and are eligible for the NRHP. For all other trails that are not congressionally designated (Bozeman and Bridger Trails), the protection measure for direct surface disturbance should not exceed the ¼ mile from the centerline of the trail or visual horizon, whichever is closer.

Page 4-267, 4.7.3.1, Methods and Assumptions, Bullet 5: "...all protective zones begin at the outer edges of trails, rather than a centerline, which is difficult to define."

Comment: Yates disagrees with this methodology and assumption as it is too subjective and creates inconsistent management. Protective zones must begin from the centerline and not the outer edges of trails. This statement should be revised to reflect that change.

Page 4-274, 4.7.3, National Historic Trails and Other Historic Trails: "...a CSU restriction extends to the viewshed foreground (out to a maximum of 3 miles) or the visual horizon, whichever is closer.. .The viewshed foreground is managed to VRM Class II..."

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Comment: Yates agrees with the qualifier of “whichever is closer,” but the protection of settings that contribute to the NRHP out to a maximum of 3 miles is excessive and unsupported. In being consistent with the PAW/PLA Rawlins RMP Revision comments, Yates supports Class II protection of congressionally designated trails within the 2 miles IF the segments and settings are pristine in nature and are eligible for the NRHP. Again, BLM must provide flexibility for VRM management prescriptions while the trail inventories for congressionally designated trails are being completed. The integrity of some portions of the trail setting has already been compromised and those areas do not warrant Class II protection.

For all other trails that are not congressionally designated (Bozeman and Bridger Trails), the protection measure for direct surface disturbance should not exceed the ¼ mile from the centerline of the trail or visual horizon, whichever is closer.

AREAS OF CRITICAL ENVIRONMENTAL CONCERN & SPECIAL MANAGEMENT AREAS

Pane 4-237, 4.7.1.5, Salt Creek Hazardous Area ACEC, Alternative E: *“Alternative E does not retain the ACEC....the BLM would implement a weed-management plan.. .”*

Comment; Yates supports lifting the ACEC designation as it is not warranted. It is also Yates understanding that the operator has completed the weed management plan. In addition, any weed management plans need to be conducted in consultation between the operator, BLM, and County Weed and Pest agencies.

Paae 4-238, 4.7.1.7, Alcova Fossil Area (Proposed ACEC/SMA), Alternative D: *“AlternativeD...involves establishing an SMA rather than designating an ACEC.”*

Comment: Yates supports the designation of the Alcova Fossil Area as an SMA versus an ACEC. It would provide more management flexibility while protecting the resource. This is particularly important because “oil and gas drilling on production facilities would be allowed if development did not cause undue degradation of paleontological resources within the SMA and would result in less adverse impacts than Alternative A.”

Pane 2-85, SD: 5, Black-tailed Prairie Dog (Proposed ACEC), Alternative D & E:

Comment: Yates supports Alternative E, which does not create an ACEC for the priority management and protection of Black-tailed Prairie Dogs. In response to a petition to list the species under the Endangered Species Act (page 3-115), USFWS determined that the species was not likely to become endangered in the foreseeable future. There are currently

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protection measures in place to practice avoidance of areas that are identified as having certain levels of prairie dog colonies or complexes. The current management of this species is sufficient for its protection and an ACEC designation is not warranted.

Page 2-86, SD: 6, Cedar Ridge Traditional Cultural Property (TCP) (Proposed ACEC or SMA), Alternative E:

Comment: Yates supports Alternative E, which does not create an ACEC or an SMA for the protection of this area. However, due to development in the area with the Madden Deep Field and Hitchcock Draw Unit, an NSO would significantly restrict further access to full field development. Operators are already subject to Section 106 cultural resource surveys prior to surface disturbance. An NSO/CSU on future leasing to require directional drilling may not be technically, geologically, or economically feasible. The NSO/CSU would be costly and possibly unrealistic to maximize recovery of the resource. Either stipulation is unwarranted and should be dropped from further consideration as other mitigation techniques can be applied to adequately protect the resource.

Page 2-88, SD: 7.1, North Platte River (Proposed ACEC, SMA, SRMA), Alternative E:

Comment: Yates supports Alternative E and the creation of an SRMA as long as oil and gas leasing, development and geophysical activity are allowed to continue within the ¼-mile of the high water mark and mitigation is negotiated on a case-by-case basis.

Page 4-253, Salt Creek SMA (Proposed), Alternative C & E:

Comment: Yates strongly supports the creation of the Salt Creek SMA and Alternative E in its entirety.

Page 2-91, SD: 10, Sand Hills SMA (Proposed), Alternative A:

Comment Yates supports Alternative A. BLM states that limited development has occurred in the area and protection of the resources remains stable. With the recent multi-million dollar geophysical project being conducted, the area could contain significant mineral resources. Oil and gas leasing and development should continue and the requirement of a mitigation plan to protect the resource prior to development is sufficient to protect the Sand Hills.

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Pane 2-93, SD: 1.1 & 1.2, South Big Horn/Red Wall (Proposed ACEC or SMA),
Alternative E:

Comment: Yates supports the creation of an SMA in Alternative E. However, due to development in the area with the Madden Deep Field and Hitchcock Draw Unit to require directional drilling on existing leases may not be technically, geologically, or economically feasible. This approach would be costly and possibly unrealistic to maximize recovery of the resource. This restriction is unwarranted and should be dropped from further consideration as other mitigation techniques can be applied to adequately protect the resource.

Paee 2-94, SD: 12, Wind River Basin (Proposed SMA), Alternative C:

Comment: Yates supports the creation of the Wind River Basin SMA and Alternative C in its entirety.

CULTURAL, VISUALS, NATIONAL HISTORIC TRAILS – GENERAL

BLM must acknowledge the sporadic nature of private land ownership patterns that are intermixed with the federal lands in areas where mineral development occurs. The management of cultural resources can be complicated in attempting to apply federal standards to resources that may not be found on adjoining federal lands. This ownership pattern is important to understanding the context in which cultural resources are managed and the fact that respecting private landowner rights is critical to ensuring our knowledge of cultural resources can continue.

In addition, this section does not recognize the **difficulty** in managing an area for Class II or III VRM for lands that fall within the a mosaic land pattern (private and federal); the agency does not provide any flexibility in the language for management options. If the Class II or III VRM remains in place, the agency will likely be faced with the need to amend the RMP once oil and gas activity on the surrounding private lands negates the current VRM status. BLM must provide flexibility for VRM management prescriptions. The integrity of some portions of the trail setting has already been compromised and those areas do not warrant Class II or III protection.

REASONABLY FORESEEABLE DEVELOPMENT
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Table 4-7. Projected BLM Federal Wells Drilled by Alternative Through 2020 in the Casper Planning Area

Comment: Under the Preferred Alternative, it is projected that a total of **1813** CBNG and conventional wells will be drilled between **2001** and **2020**. See, Draft Resource Management Plan and Environmental Impact Statement for the Casper Field Office Planning Area, Volume 1 of 2, Table 4-7, Page 4-38 and Appendix M, Page M-11.

This is **175** wells less than the total number of wells projected under the baseline or Unconstrained Alternative, **10** wells less than the total number of wells projected under the No Action Alternative (Alternative A), **13** wells more than the total number of wells projected under the Pro-Development Alternative (Alternative D) and **1623** wells more than the total number of wells projected under the Conservation Alternative (Alternative B).

In addition, considering closures, major restrictions from other resources and the number of producing wells expected, the Preferred Alternative (Alternative E) has the second least potential adverse impacts to oil and gas exploration and development. See, Draft Resource Management Plan and Environmental Impact Statement for the Casper Field Office Planning Area, Volume 1 of 2, Page 4-43. For these reasons, Yates supports the reasonable foreseeable development scenario under the Preferred Alternative. That being said, the BLM should still provide the data to show how it reached its conclusion(s) relative to reasonably foreseeable development.

Page 4-76 ***“Alternative E requires retreatment of reclaimed areas that do not have 30 or 50 percent of pre-disturbance vegetative cover in 3 or 5 years, respectively, similar to Alternative C.***

Comment: The above requirement (1) does not account for weather conditions that are beyond an Operator’s control (e.g., drought and wind) and (2) it could be interpreted to mean that reclaimed areas must have better vegetative cover than the surrounding undisturbed land. Operators have and will continue to make a good faith effort to reclaim disturbed land. This should be reflected in the BLM’s requirements.

GENERAL COMMENTS REGARDING AIR QUALITY

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Yates supports that BLM took a qualitative approach instead of a quantitative approach due to the lack of site-specific data and the fact that the WDEQ regulates air quality through permitting and associated BACT and modeling.

Page 4-7 - The third paragraph discusses the potential impact of AQRV's within the Bridger and Fitzpatrick Wilderness Areas. BLM points out that the air quality in these areas may be impacted based on previous quantitative analyses for the Powder River Basin EIS.

Comment: It is important to note that the modeling analysis is highly dependent upon meteorological conditions such as wind direction, wind speed, ambient temperatures, etc., the characteristics of the emission sources, including type, spacing, emission height, emission temperature, etc, and topography. Consideration of these elements would provide a better balanced analysis. It is questionable to assume that because the Powder River Basin EIS predicted impacts 200 miles away that an analysis for this EIS would do the same. On the other hand, based upon reliable air quality data, Yates supports BLM's finding that under all alternatives oil and gas operations would not likely not cause an exceedance of National or Wyoming Ambient Air Quality Standards.

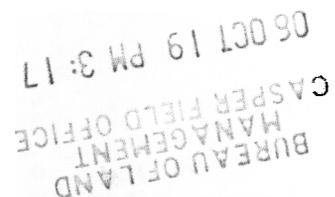
Page 4-9: H₂S and its potential impacts.

Comment: It is stated that APDs would include a contingency plan. Yates recommends that BLM list the requirements of such a plan, including a statement that it will be evaluated on a case-by-case basis depending on the expected levels of H₂S.

WILDLIFE AND FISHERIES

Page 4-99 "**BLM is responsible for managing habitat, whereas state and federal wildlife management agencies (e.g., WGFD, USG WS) oversee management of wildlife species.**"

Comment: With respect to wildlife, it is extremely helpful to explain what the BLM is responsible for and what the state and federal wildlife management agencies are responsible for. Yates commends the BLM for identifying this distinction.



SURFACE DISTURBANCE MITIGATION GUIDELINES
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Appendix I, Wyoming Bureau of Land Management Mitigation Guidelines for Surface-Disturbance and Disruptive Activities

Comment: According to Appendix I, one of the purposes of integrating mitigation guidelines into the RMP EIS process is to “provide more consistency with planning decisions and plan implementation than has occurred in the past.” See, Draft Resource Management Plan and Environmental Impact Statement for the Casper Field Office Planning Area, Volume 2 of 2, Appendix I, Page 1-2. Historically, Operators have struggled with the inconsistency of not only the BLM but other agencies as well. As a result, Yates supports the idea of providing more consistency with planning decisions and plan implementation.

SURFACE DISTURBANCE MITIGATION GUIDELINES

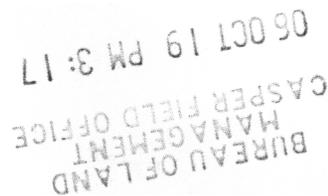
Appendix I, Pages 1-2 through 1-3 ***“Surface disturbance will be prohibited in any of the following areas or conditions. Exception, waiver, or modification of this limitation may be approved in writing, including documented supporting analysis, by the authorized officer.”***

“Exception, waiver or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the authorized officer.”

Comment: The above language implies that, in certain situations, Operators can seek and obtain an exception, waiver or modification of both surface disturbing and wildlife mitigation guidelines. Yates supports this idea, because there are instances in which applying certain surface disturbing or wildlife mitigation guidelines does not necessarily prevent surface disturbance or protect wildlife. It only increases construction and/or operation costs.

SPLIT ESTATE LANDS

While BLM does have the mandate, through NEPA, to analyze for cumulative effects of a proposed action, it does not give the agency the authority to manage private property. Cultural resources are the property of the surface owner unless the landowner has an agreement with the agency to manage the resource. The request for the survey of cultural resources on private surface must be subject to landowner approval. If the landowner denies a survey request for cultural resources on private surface in the project area, BLM should not deny the POD or APD. A statement can be included in the POD or APD submittal that the agency requested a cultural survey and was denied by the landowner. That would demonstrate that the agency addressed cultural resources in its analysis.



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With regard to BLM split estate policy, Yates supports the requirements in, or the current version of, Onshore Oil and Gas Order No. 1 along with the Washington Office Instruction Memorandum 131-2003 (Permitting Oil and Gas on Split Estate Lands and Guidance for Onshore Oil and Gas Order No. 1) and contend that this memorandum accurately reflects the appropriate process the agency must take prior to approving APDs on split estate lands. In addition, both organizations provided input to BLM pertaining to the agencies report to Congress required under the Energy Policy Act of 2005 provisions.

Regarding private property, should the company find it difficult to resolve issues with the landowner for the development of leases, Yates recommends the services of the Wyoming Split Estate Initiative (WYSEI). It is a voluntary program that outlines options to be considered by both parties and if utilized, could minimize or prevent conflict. Information regarding this program can be found on the WYSEI website at www.wysei.com.

OFF-HIGHWAY VEHICLE MANAGEMENT

Appendix R, Pages R-13 through R-14 *“Other necessary tasks (usually commercial in nature) require off-road motor vehicle travel may be allowed as long as resource damage does not occur and new routes are not created. They include such activities as, but are not limited to: geophysical exploration, maintaining range improvements and surveying rights-of-way or other work-related tasks associated with or which lead to the issuance of a permit or authorization. Necessary tasks may be allowed by the Field Office in advance of issuance of a formal authorization.*

Comment: The above language implies that regardless of the limitations placed on off-highway vehicle travel, geophysical activities will still be allowed in all regions of the planning area. Yates commends the BLM for both recognizing and not limiting geophysical/seismic exploration.

SURFACE DISTURBANCE MITIGATION GUIDELINES

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Appendix I, Wyoming Bureau of Land Management Mitiaation Guidelines for Surface-Disturbing and DisruptiveActivities

Comment: According to Appendix I, one of the purposes of integrating mitigation guidelines into the RMP EIS process is to “provide more consistency with planning decisions and plan implementation than has occurred in the past.” See, Draft Resource Mannaement Plan and Environmental Impact Statement for the Casper Field Office Planning Area, Volume 2 of 2, Appendix I, Page 1-2. Historically, Operators have struggled with the inconsistency of not only the BLM but other agencies as well. As a result, Yates supports the idea of providing more consistency with planning decisions and plan implementation.

SURFACE DISTURBANCE MITIGATION GUIDELINES

Appendix I, Pages 1-2 through 1-3 *"Surface disturbance will be prohibited in any of the following areas or conditions. Exception, waiver, or modification of this limitation may be approved in writing, including documented supporting analysis, by the authorized officer."*

"Exception, waiver or modification of this limitation in any year may be approved in writing, including documented supporting analysis, by the authorized officer."

Comment: The above language implies that, in certain situations, Operators can seek and obtain an exception, waiver or modification of both surface disturbing and wildlife mitigation guidelines. PAW supports this idea, because there are instances in which applying certain surface disturbing or wildlife mitigation guidelines does not necessarily prevent surface disturbance or protect wildlife. It only increases construction and/or operation costs.

SPLIT ESTATE LANDS

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CASPER FIELD OFFICE
BUREAU OF LAND
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Regarding private property, should the company find it difficult to resolve issues with the landowner for the development of leases, Yates recommends the services of the Wyoming Split Estate Initiative(WYSEI). It is a voluntary program that outlines options to be considered by both parties and if utilized, could minimize or prevent conflict. Information regarding this program can be found on the WYSEI website at www.wysei.com.

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Page 2-4 “Oil and gas lease stipulations may be modified **or** eliminated using the exception, modification, or waiver criteria outlined in Appendix F **or** through more site-specific environmental analysis. The **BLM’s** authorized officer could modify those stipulations determined to be either too restrictive **or** too lenient relative to desired outcomes.”

Comment: The assumption that BLM can modify stipulations to make them more restrictive is incorrect because it fails to acknowledge that valid existing rights are associated with a lease contract. According to statute and regulation, the agency has no authority to change stipulations or the terms of the lease contract without voluntary agreement from the lessee. Moreover, the agency’s authority to impose conditions of approval on a proposed project is also limited by the terms associated with the issued lease, as directed in 43 CFR 3101.1-2, Surface Use Rights:

*“A lessee shall have the right to use **so** much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose **of** all the leased resource in a leasehold subject to: Stipulations attached to the lease; restrictions deriving from specific, nondiscretionary statutes; and such reasonable measures as may be required by the authorized officer to minimize adverse impacts to other resource values, land uses **or** users not addressed in the lease stipulations at the time operations are proposed. To the extent consistent with lease rights granted, such reasonable measures may include, but are not limited to, modification to siting **or** design **of** facilities, timing **of** operations, and specification of interim and final reclamation measures. At a minimum, measures shall be deemed consistent with lease rights granted provided that they do not: require relocation **of** proposed operations by more than **200** meters; require that operations be sited off the leasehold; **or** prohibit new surface disturbing operations for a period in excess **of** 60 days in any lease year.”*
[Emphasis added]

BLM’s Instruction Memorandum 92-67 further clarifies how valid existing rights are to be honored.

*“The lease contract conveys certain rights which must be honored through its term, regardless of the age of the lease, a change in surface management **or** conditions **or** the availability **of** new data or information. The contract was validly entered into based upon the environmental standards and information current at the time of lease issuance..Any application of mitigation to a post-lease operation is subject to State Director Review (SDR), if requested by the operator. Such a review would consider whether the identified impact is considered to be unnecessary and undue degradation. If so determined, the mitigation would be upheld as being consistent with the granted lease rights and within the*

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government's reserved authority to mitigate operations. If determined to be necessary and due degradation, the mitigation WOULD NOT be allowed. If the mitigation was developed in an RMP then a plan amendment may be necessary to correct any decisions which infringe on valid existing @ease fights."

It is legally required that Valid Existing Rights be honored. Therefore, not only must their acknowledgment be incorporated into the section that outlines Management Common to All Alternatives, but throughout the entire environmental impact statement and the resulting resource management plan as well, including the Glossary.

WATER QUALITY, WATERSHED, SOILS MANAGEMENT/VEGETATION/NOXIOUS WEEDS

Page 2-24 "Like alternatives C and D, the use of pitless technology for oil and gas drilling operations is required when there is potential for adverse impacts to surface water, groundwater or soils.

Comment: The BLM does not have the authority to regulate surface or ground water quality. Additionally, by requiring pitless technology for oil and gas drilling operations, the BLM does not consider the use of lined pits. Similar to pitless technology, lined pits also protect surface water, groundwater and soils. For these reasons, the above language should be amended as follows:

"The use of lined pits or pitless technology for oil and gas drilling operations is recommended when there is potential for adverse impacts to surface water, groundwater or soils."

WILDLIFE AND FISHERIES (SAGE-GROUSE)

General Sage-grouse Comments Relative to Table 2-3 Pages 2-55 through 2-56;
Page 2-24 AND Page 3-73

Table 2-3, Pages 2-55 through 2-56

Comments:

1. It is unclear whether the Bates Hole and Fish Creek Willow Creek Areas are one in the same. Based on Table 2-3 and related sections within the Casper Draft RMP, Yates assumes that the Fish and Willow Creek areas are located within the Bates Hole area. Yates requests that the BLM clarify this issue.

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2. It is clear the BLM has decided to regulate the Bates Hole and Fish Creek Willow Creek areas differently than the remaining planning area – *The Bates Hole and Fish Creek Willow Creek area has a ¾-mile CSU buffer and a 4-mile timing restriction buffer around occupied Sage-grouse leks and the rest of the planning area has a ¼-mile NSO buffer and 2-mile timing restriction buffer around occupied Sage grouse leks.* The agency does not, however, provide a reason why these areas should be regulated differently and it does not provide the data to show that a ¾-mile CSU buffer and a 4-mile timing restriction buffer around occupied leks is appropriate. To strengthen and add credibility to the Draft RMP, the BLM should provide this information.
 3. Finally, the BLM infers there is a difference between *suitable* and *identified* Sage-grouse habitat. In §4.4.9, however, the agency does not use the word *suitable* to describe protected Sage-grouse habitat. The discussion is limited to *identified* Sage-grouse habitat. To clarify this issue, the BLM should first determine whether it is necessary to distinguish between *suitable* and *identified* Sage-grouse habitat. If it is necessary, the BLM should explain the difference between the two.

Pane 2-24

It is clear from the language found on page 2-24 –

“The Bates Hole and Fish Creek Willow Creek area under Alternative E have a ¾-mile CSU buffer for occupied greater sage-grouse leks (20,823 acres of BLM-administered surface and 39,070 acres of BLM-administered mineral estate) to protect breeding habitats. Occupied greater sage-grouse leks also have a 4-mile buffer (190,856 acres of BLM-administered surface and 339,906 acres of BLM-administered mineral estate) where surface development or wildlife-disturbing activities are restricted from March 15 through July 15 (TLS). Surface disturbance is required to avoid (year-round) sagebrush stands (of greater than 10 percent canopy cover).”

that the ¾-mile CSU buffer for occupied greater sage-grouse leks applies only to the Bates Hole and Fish Creek Willow Creek areas. It is unclear, however, where the 4-mile timing restriction buffer applies. Since the 4-mile timing restriction buffer is discussed in the same paragraph as the ¾-mile CSU buffer, Yates assumes that the 4-mile timing restriction buffer similarly applies only to the Bates Hole and Fish Creek Willow Creek areas. To clarify this matter, the second sentence in the above paragraph should be rewritten as follows:

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Occupied greater sage-grouse leks within the Bates Hole and Fish Creek Willow Creek area also have a 4-mile timing restriction buffer (190,856 acres of BLM-administered surface and 339,906 acres of BLM-administered mineral estate) where surface development or wildlife-disturbing activities are restricted from March 15 through July 15 (TLS).

Page 3-73

“The WGFD and the BLM have annually surveyed and monitored greater sage-grouse leks since the 1950s.”

The above language implies that greater sage-grouse leks are surveyed every year. This is not the case. The BLM should clarify when and how greater sage-grouse leks are surveyed.

WATER QUALITY, WATERSHED, SOILS
MANAGEMENT/VEGETATION/NOXIOUS WEEDS

Table 2-3. Record#1033

Comment: The requirement under Alternative E (Preferred Alternative) is the same as the requirement under Alternative C which is to use pitless drilling technology to protect surface water, groundwater and/or soils. The BLM does not have the authority to regulate surface or ground water quality. In addition, pitless drilling technology is expensive, inefficient and cumbersome. Lined pits, on the other hand, are commonly used, less expensive and are designed to protect surface water, groundwater and soils. For these reasons, the BLM should not require Operators to use pitless drilling technology.

SURFACE DISTURBANCE MITIGATION GUIDELINES

Table 2-3. Record#2018

Comment; Under the Preferred Alternative, Record #2018 requires directional drilling on a case-by-case basis. Requiring directional drilling on a case-by-case basis is too subjective. In addition, the application of this technology is technically and economically limited within the planning area. The BLM should remove this requirement from Table 2-3.

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HERITAGE RESOURCES 00107

Page 2-59, Goal HR:1.1, Alternative E: “...**except block inventories would be applied when full field development is identified..**”

Comment: While block cultural inventories may be realistic in some circumstances, BLM must remain flexible in their expectations. For example, spacing requirements may only allow development on 160/80/40 acres which therefore leaves a significant percentage of lands in a project area undeveloped. Requiring block surveys on the entire project area is a significant cost addition to the project and may not fit spacing specifications. This language must be modified to apply block inventories on a case-by-case basis in consultation with the project operator(s).

Page 2-59, Goal HR:1.1, Alternative E: “...**except linear inventories would cover a minimum of 100 feet on either side of surface disturbance.**”

Comment: BLM provides no justification for this change in management prescription requiring linear inventories that would cover a minimum of 100 feet on either side of the disturbance. BLM must provide an explanation for this change as it creates additional financial burden on the operator without providing an explanation of benefits or that the current management prescription is not working effectively. This requirement should be deleted and replaced with language that the area to be surveyed for linear inventories be negotiated on a case-by-case basis with the project proponent.

PALEONTOLOGICAL RESOURCES

Page 2-59, Goal HR: 3.3, Alternatives D & E: “**Develop interpretive facilities...at specific localities with high paleontological values on a case-by-case basis.**”

Comment: It is appropriate for BLM to work with other outside groups and organizations to provide interpretive facilities. BLM must refrain from requiring industry to develop interpretive facilities as mitigation for oil and gas projects.

NATIONAL HISTORIC TRAILS AND OTHER HISTORIC TRAILS

Page 2-61, Goal HR: 5.3, Alternatives C & E: “**The foreground/middle ground of NHTs will be managed as Class II until inventories are completed...**”

Comment: BLM must provide flexibility in management prescriptions while the inventories for congressionally designated trails are being completed. The integrity of some portions of the trail setting has already been compromised and those areas do not warrant Class II protection.

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Pane 2-97, SD: 14.1, Alternative E: *"NHTs and other Historic Trails Where Setting Does Not Contribute to NRHP Eligibility."*

Comment: In the case where trail segments and settings do not contribute to eligibility, Class IV management may be more appropriate than Class III. Again, BLM needs to maintain flexibility in management prescriptions.

Regarding direct surface disturbance to trails, whether they are NHTs or other trails, Yates supports a CSU requirement of avoidance within ¼ mile or the visual horizon, whichever is closer.

Pane 2-97, SD: 16, Alternative E: *"Where Historic Setting Contributes to NRHP Eligibility."*

Comment; To protect all trails with the same status as a congressionally designated trail is unacceptable. Furthermore, the protection of all trails from the foreground (3 miles) to the middle ground (5 miles), as defined in the glossary, is excessive and unsupported. BLM must provide flexibility for VRM management prescriptions while the trail inventories for congressionally designated trails are being completed. The integrity of some portions of the trail setting has already been compromised and those areas do not warrant Class II protection.

Yates supports the Class II protection of congressionally designated trails within the 2 miles IF the segments and settings are pristine in nature and are eligible for the NRHP. For all other trails that are not congressionally designated (Bozeman and Bridger Trails), the protection measure for direct surface disturbance should not exceed the ¼ mile from the centerline of the trail or visual horizon, whichever is closer.

Pane 4-267, 4.7.3.1, Methods and Assumptions, Bullet 5: *"...all protective zones begin at the outer edges of trails, rather than a centerline, which is difficult to define."*

Comment: Yates disagrees with this methodology and assumption as it is too subjective and creates inconsistent management. Protective zones must begin from the centerline and not the outer edges of trails. This statement should be revised to reflect that change.

Pane 4-274, 4.7.3, National Historic Trails and Other Historic Trails: *"...a CSU restriction extends to the viewshed foreground (out to a maximum of 3 miles) or the visual horizon, whichever is closer.. .The viewshed foreground is managed to VRM Class II..."*

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Comment: Yates agrees with the qualifier of “whichever is closer,” but the protection of settings that contribute to the NRHP out to a maximum of 3 miles is excessive and unsupported. In being consistent with the PAW/PLA Rawlins RMP Revision comments, Yates supports Class II protection of congressionally designated trails within the 2 miles IF the segments and settings are pristine in nature and are eligible for the NRHP. Again, BLM must provide flexibility for VRM management prescriptions while the trail inventories for congressionally designated trails are being completed. The integrity of some portions of the trail setting has already been compromised and those areas do not warrant Class II protection.

For all other trails that are not congressionally designated (Bozeman and Bridger Trails), the protection measure for direct surface disturbance should not exceed the ¼ mile from the centerline of the trail or visual horizon, whichever is closer.

AREAS OF CRITICAL ENVIRONMENTAL CONCERN & SPECIAL MANAGEMENT AREAS

Page 4-237, 4.7.1.5, Salt Creek Hazardous Area ACEC, Alternative E: *“Alternative E does not retain the ACEC....the BLM would implement a weed-management plan..”*

Comment: Yates supports lifting the ACEC designation as it is not warranted. It is also Yates understanding that the operator has completed the weed management plan. In addition, any weed management plans need to be conducted in consultation between the operator, BLM, and County Weed and Pest agencies.

Page 4-238, 4.7.1.7, Alcova Fossil Area (Proposed ACEC/SMA), Alternative D: *“Alternative D.. involves establishing an SMA rather than designating an ACEC.”*

Comment: Yates supports the designation of the Alcova Fossil Area as an SMA versus an ACEC. It would provide more management flexibility while protecting the resource. This is particularly important because “oil and gas drilling on production facilities would be allowed if development did not cause undue degradation of paleontological resources within the SMA and would result in less adverse impacts than Alternative A.”

Page 2-85, SD: 5, Black-tailed Prairie Dog (Proposed ACEC), Alternative D & E:

Comment: Yates supports Alternative E, which does not create an ACEC for the priority management and protection of Black-tailed Prairie Dogs. In response to a petition to list the species under the Endangered Species Act (page 3-115), USFWS determined that the species was not likely to become endangered in the foreseeable future. There **are** currently

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protection measures in place to practice avoidance of areas that are identified as having certain levels of prairie dog colonies or complexes. The current management of this species is sufficient for its protection and an ACEC designation is not warranted.

Page 2-86, SD: 6, Cedar Ridge Traditional Cultural Property (TCP) (Proposed ACEC or SMA), Alternative E:

Comment: Yates supports Alternative E, which does not create an ACEC or an SMA for the protection of this area. However, due to development in the area with the Madden Deep Field and Hitchcock Draw Unit, an NSO would significantly restrict further access to full field development. Operators are already subject to Section 106 cultural resource surveys prior to surface disturbance. An NSO/CSU on future leasing to require directional drilling may not be technically, geologically, or economically feasible. The NSO/CSU would be costly and possibly unrealistic to maximize recovery of the resource. Either stipulation is unwarranted and should be dropped from further consideration as other mitigation techniques can be applied to adequately protect the resource.

Page 2-88, SD: 7.1, North Platte River (Proposed ACEC, SMA, SRMA), Alternative E:

Comment: Yates supports Alternative E and the creation of an SRMA as long as oil and gas leasing, development and geophysical activity are allowed to continue within the ¼-mile of the high water mark and mitigation is negotiated on a case-by-case basis.

Page 4-253, Salt Creek SMA (Proposed), Alternative C & E:

Comment: Yates strongly supports the creation of the Salt Creek SMA and Alternative E in its entirety.

Page 2-91, SD: 10, Sand Hills SMA (Proposed), Alternative A:

Comment: Yates supports Alternative A. BLM states that limited development has occurred in the area and protection of the resources remains stable. With the recent multi-million dollar geophysical project being conducted, the area could contain significant mineral resources. Oil and gas leasing and development should continue and the requirement of a mitigation plan to protect the resource prior to development is sufficient to protect the Sand Hills.

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Page 2-93, SD: 1.1 & 1.2, South Big Horns/Red Wall (Proposed ACEC or SMA),
Alternative E: 00107

Comment: Yates supports the creation of an SMA in Alternative E. However, due to development in the area with the Madden Deep Field and Hitchcock Draw Unit to require directional drilling on existing leases may not be technically, geologically, or economically feasible. This approach would be costly and possibly unrealistic to maximize recovery of the resource. This restriction is unwarranted and should be dropped from further consideration as other mitigation techniques can be applied to adequately protect the resource.

Page 2-94, SD: 12, Wind River Basin (Proposed SMA), Alternative C:

Comment: Yates supports the creation of the Wind River Basin SMA and Alternative C in its entirety.

CULTURAL, VISUALS, NATIONAL HISTORIC TRAILS – GENERAL

BLM must acknowledge the sporadic nature of private land ownership patterns that are intermixed with the federal lands in areas where mineral development occurs. The management of cultural resources can be complicated in attempting to apply federal standards to resources that may not be found on adjoining federal lands. This ownership pattern is important to understanding the context in which cultural resources are managed and the fact that respecting private landowner rights is critical to ensuring our knowledge of cultural resources can continue.

In addition, this section does not recognize the difficulty in managing an area for Class II or III VRM for lands that fall within the a mosaic land pattern (private and federal); the agency does not provide any flexibility in the language for management options. If the Class II or III VRM remains in place, the agency will likely be faced with the need to amend the RMP once oil and gas activity on the surrounding private lands negates the current VRM status. BLM must provide flexibility for VRM management prescriptions. The integrity of some portions of the trail setting has already been compromised and those areas do not warrant Class II or III protection.

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Table 4-7. Projected BLM Federal Wells Drilled by Alternative Through 2020 in the Casper Planning Area

Comment: Under the Preferred Alternative, it is projected that a total of 1813 CBNG and conventional wells will be drilled between 2001 and 2020. See, Draft Resource Management Plan and Environmental Impact Statement for the Casper Field Office Planning Area, Volume 1 of 2, Table 4-7, Page 4-38 and Appendix M, Page M-11.

This is 175 wells less than the total number of wells projected under the baseline or Unconstrained Alternative, 10 wells less than the total number of wells projected under the No Action Alternative (Alternative A), 13 wells more than the total number of wells projected under the Pro-Development Alternative (Alternative D) and 1623 wells more than the total number of wells projected under the Conservation Alternative (Alternative B).

In addition, considering closures, major restrictions from other resources and the number of producing wells expected, the Preferred Alternative (Alternative E) has the second least potential adverse impacts to oil and gas exploration and development. See, Draft Resource Management Plan and Environmental Impact Statement for the Casper Field Office Planning Area, Volume 1 of 2, Page 4-43. For these reasons, Yates supports the reasonable foreseeable development scenario under the Preferred Alternative. That being said, the BLM should still provide the data to show how it reached its conclusion(s) relative to reasonably foreseeable development.

Page 4-76 *“Alternative E requires retreatment of reclaimed areas that do not have 30 or 50 percent of pre-disturbance vegetative cover in 3 or 5 years, respectively, similar to Alternative C.*

Comment: The above requirement (1) does not account for weather conditions that are beyond an Operator’s control (e.g., drought and wind) and (2) it could be interpreted to mean that reclaimed areas must have better vegetative cover than the surrounding undisturbed land. Operators have and will continue to make a good faith effort to reclaim disturbed land. This should be reflected in the BLM’s requirements.

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GENERAL COMMENTS REGARDING AIR QUALITY

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Yates supports that BLM took a qualitative approach instead of a quantitative approach due to the lack of site-specific data and the fact that the WDEQ regulates air quality through permitting and associated BACT and modeling.

Page 4-7 - The third paragraph discusses the potential impact of AQRV's within the Bridger and Fitzpatrick Wilderness Areas. BLM points out that the air quality in these areas may be impacted based on previous quantitative analyses for the Powder River Basin EIS.

Comment: It is important to note that the modeling analysis is highly dependent upon meteorological conditions such as wind direction, wind speed, ambient temperatures, etc., the characteristics of the emission sources, including type, spacing, emission height, emission temperature, etc, and topography. Consideration of these elements would provide a better balanced analysis. It is questionable to assume that because the Powder River Basin EIS predicted impacts 200 miles away that an analysis for this EIS would do the same. On the other hand, based upon reliable air quality data, Yates supports BLM's finding that under all alternatives oil and gas operations would not likely not cause an exceedance of National or Wyoming Ambient Air Quality Standards.

Page 4-9: H₂S and its potential impacts.

Comment: It is stated that APDs would include a contingency plan. Yates **recommends** that BLM list the requirements of such a plan, including a statement that it will be evaluated on a case-by-case basis depending on the expected levels of H₂S.

WILDLIFE AND FISHERIES

Page 4-99 "BLM is responsible for managing habitat, whereas state and federal wildlife management agencies (e.g., WGFD, USGWS) oversee management of wildlife species."

Comment: With respect to wildlife, it is extremely helpful to explain what the BLM is responsible for and what the state and federal wildlife management agencies are responsible for. Yates commends the BLM for identifying this distinction.

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