



*Bureau of Land Management  
Director's Summary Protest Resolution Report*

**Areas of Critical  
Environmental Concern  
Proposed Resource  
Management Plan  
Amendment for the Tres Rios  
Field Office**

January 29, 2020

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## *Acronyms*

<b>ACEC</b>	Areas of Critical Environmental Concern
<b>BLM</b>	Bureau of Land Management
<b>BO</b>	Biological Opinion
<b>CEQ</b>	Council on Environmental Quality
<b>CFR</b>	Code of Federal Regulations
<b>CPW</b>	Colorado Parks and Wildlife
<b>EIS</b>	environmental impact statement
<b>ESA</b>	Endangered Species Act
<b>Final EA</b>	Final Environmental Assessment
<b>FLPMA</b>	Federal Land Policy and Management Act of 1976
<b>FWS</b>	U.S. Fish and Wildlife Service
<b>GUSG</b>	Gunnison Sage-Grouse
<b>GuSG Rangewide Plan Amendment</b>	Gunnison Sage-Grouse Rangewide Plan Amendment
<b>GUSG RMPA</b>	Gunnison Sage-Grouse Rangewide Draft Resource Management Plan Amendment
<b>LRMP</b>	Land and Resource Management Plan
<b>NEPA</b>	National Environmental Policy Act
<b>PEA</b>	Preliminary Environmental Assessment
<b>RMP</b>	Resource Management Plan
<b>TRFO</b>	Tres Rios Field Office
<b>U.S.C.</b>	U.S. Code
<b>USGS</b>	U.S. Geological Survey

***Protesting Party Index***

<b>Protester</b>	<b>Organization</b>	<b>Determination</b>
Kris Holstrom	San Miguel County Board of Commissioners	Denied – Issues and Comments

## *NEPA – Best Available Science*

### *San Miguel County Board of Commissioners*

*Kris Holstrom*

**Issue Excerpt Text:** BLM failed to consider scientific information we submitted with our scoping and preliminary EA comments. In our scoping and preliminary EA comments, we introduced relevant scientific information that BLM must consider in preparing the final EA. As we noted, initial evaluations of many of the potential ACEC areas date back more than a decade. The regulations implementing NEPA state that information must be “high quality” and use “accurate scientific analysis.” 40 C.F.R. §1500.1(b). NEPA “ensures that the agency, in reaching its decision, will have available and will carefully consider detailed information concerning significant environmental impacts.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). The Data Quality Act and BLM’s interpreting guidance expand on this obligation, requiring that influential scientific information use “best available science and supporting studies conducted in accordance with sound and objective scientific practices.” Treasury and General Government Appropriations Act for Fiscal Year 2001, Pub.L. No. 106-554, § 515. See also Bureau of Land Management, Information Quality Guidelines, available at <https://www.blm.gov/documents/nationaloffice/public-room/guidebook/blm-information-quality-guidelines>.

### *San Miguel County Board of Commissioners*

*Kris Holstrom*

**Issue Excerpt Text:** According to the EA and ACEC amendment decision, BLM did not consult any of this information in developing the EA. The EA includes a list of references BLM considered to evaluate potential ACECs, which does not include or reference any of this information. EA § 6.1. The EA also does not acknowledge that we submitted this information or provide a rationale for why BLM did not consider it. The failure to consider the best available science or explain why this was not considered is arbitrary, capricious, and not in accordance with the law.

### *San Miguel County Board of Commissioners*

*Kris Holstrom*

**Issue Excerpt Text:** Further, the EA does not indicate what source of geologic data was used to map the Paradox Member of the Hermosa formation (the source material for Gypsum soils). This makes it impossible for the public to determine whether BLM accurately mapped the formation. In addition, it makes it impossible for the public to determine whether the relevant and important values identified by our organizations, BLM and other interested parties are within the new ACEC boundary.

### *San Miguel County Board of Commissioners*

*Kris Holstrom*

**Issue Excerpt Text:** It is not clear from this statement whether the occurrences and populations of rare plants within the original Gypsum Valley ACEC, are all within the new proposed ACEC boundary. BLM did not describe the source of this information, making it unclear whether BLM used the best available science to make this determination. In addition, *Naturita* milkvetch, shortstem beardtongue, and winding mariposa lily do not grow solely or even primarily on Gypsum soils (See species accounts at <http://explorer.natureserve.org/>). Rare plants that BLM determined meet the relevance and importance criteria, and need special management, may be found in areas outside of the new proposed ACEC boundary.

### *San Miguel County Board of Commissioners*

*Kris Holstrom*

**Issue Excerpt Text:** Specifically, we submitted a paper to BLM prepared by Conservation Science Partners that places this analysis in context of the Dry Creek Basin ACEC. See PEA Comments Attachment 6 (DCB\_ACEC\_Report\_CSP\_071216\_Final). None of this research is referenced in the

Preliminary EA. (Conservation Priority Areas and Scale Dependent Conservation Cores [Dickson et al. 2014]: These data come from the scientific paper titled, “Systematic identification of potential conservation priority areas on roadless Bureau of Land Management lands in the western United States.” This work is peer reviewed and published in the scientific journal, Biological Conservation. We submitted this paper as an attachment to the RMW et al. scoping comments on the Tres Rios ACEC Amendment.

**Summary:**

The Bureau of Land Management (BLM) failed to consider scientific information submitted during scoping and in comments submitted on the Tres Rios Field Office (TRFO) Areas of Critical Environmental Concern (ACEC) Resource Management Plan (RMP) Amendment and Preliminary Environmental Assessment (PEA). The TRFO ACEC Proposed RMP Amendment and Final Environmental Assessment (Final EA) does not reference information submitted by San Miguel County during scoping or provide a rationale for why the information was not considered. The Final EA also fails to indicate the source for geologic data used to map the Paradox Member of the Hermosa formation (in reference to source material for Gypsum soils) and rare plant occurrence data. The BLM failed to consider best available information in the decision to defer designation of the Dry Creek Basin and Northdale potential ACECs.

**Response:**

The Council on Environmental Quality’s (CEQ) regulations implementing the National Environmental Policy Act (NEPA) require that agencies use “high quality information” (40 Code of Federal Regulations [CFR] 1500.1(b)). NEPA regulations require the BLM to “ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements” (40 CFR 1502.24).

The BLM NEPA Handbook also directs the BLM to “use the best available science to support NEPA analyses and give greater consideration to peer-reviewed science and methodology over that which is not peer-reviewed” (BLM Handbook H-1790-1, p. 55). Under the BLM’s guidelines for implementing the Information Quality Act, the BLM applies the principle of using the “best available” data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012).

The BLM relied on high-quality information and the best available data in preparation of the Final EA. The following geologic data were used by the BLM to map the Paradox Member of the Hermosa formation within the Gypsum Valley ACEC (available online at: <https://ngmdb.usgs.gov/mapview/>):

- Cater, F. W. 1955. Geology of the Gypsum Gap Quadrangle, Colorado. U.S. Geological Survey (USGS) Quadrangle Map GQ-59 1:24,000 Scale.
- Cater, F. W. 1955. Geology of the Hamm Canyon Quadrangle, Colorado. U.S. USGS Quadrangle Map GQ-69 1:24,000 Scale.
- Cater, F. W. 1955. Geology of the Horse Range Mesa Quadrangle, Colorado. U.S. USGS Quadrangle Map GQ-64 1:24,000 Scale.
- Cater, F. W. 1955. Geology of the Anderson Mesa Quadrangle, Colorado. U.S. USGS Quadrangle Map GQ-77 1:24,000 Scale.

Not all the rare plants within the original Gypsum Valley ACEC were included in the new proposed Gypsum Valley ACEC boundary. The new proposed Gypsum Valley ACEC boundary includes only those rare plants associated with gypsum soils formations that are at risk from impacts from off-highway vehicle use. These rare species include Gypsum Valley cat-eye (*Cryptantha gypsophila*), Neally’s dropseed (*Sporobolus nealleyi*), nodule cracked lichen (*Acarospora nodulosa* var. *nodulosa*), and Gypsum rim-lichen (*Lecanora gypsicola*). The new proposed Gypsum Valley ACEC boundary does not include habitat for the other rare plants short-stem beardtongue (*Penstemon breviculus*), Naturita milkvetch (*Astragalus naturitensis*) and flex-stemmed mariposa lily (*Calochortus flexuosus*). However,

adequate protections for these rare plants are provided for in the 2015 TRFO RMP and Record of Decision (2015), including guidelines to limit ground disturbance on gypsum soils to protect rare plants associated with these soils. The Paradox Member of the Hermosa Formation does not occur within the Dry Creek Basin or Northdale potential ACECs.

The BLM considered scientific information submitted during scoping and in comments submitted on TRFO ACEC RMP and PEA. As noted in Appendix C (pp. 105 and 106) of the Final EA, information provided by San Miguel County was reviewed by the BLM, but did not provide additional details that would meaningfully change the effects already discussed in the PEA. The rationale for how the BLM reviewed ACEC nominations for relevance and importance criteria to determine which areas would be considered as proposed ACECs can be found in Appendix U of the *San Juan Tres Rios Land and Resource Management Plan Final Environmental Impact Statement* (2013). The list of references used in the process appears in the PEA and ACEC Report (2017) and represents the best available information.

As indicated in Appendix C of the Final EA (p. 80), the BLM reviewed the available information (inclusive of the scientific information provided by San Miguel County) for the Dry Creek Basin and Northdale areas and found that only those occurrences of rare and imperiled species in the Dry Creek Basin nominated ACEC met the relevance and importance criteria. The BLM describes the process for considering and evaluating areas as ACECs in the report *Evaluation of Nominated & Existing Areas of Critical Environmental Concern for the BLM Tres Rios Planning Area* (June 2017). The report is not a decision document, but rather a determination of whether the resource values of a nominated area satisfy the requirements of relevance and importance consistent with 43 CFR Part 1610.7-2 and BLM Manual 1613. Accordingly, all nominated and existing areas within the Tres Rios Planning Area were reviewed by the BLM to determine if the relevance and importance criteria were met. The report is available on the BLM's ePlanning project website at: <https://go.usa.gov/xnU6U>.

The proposed Gypsum Valley ACEC boundary was provided in a PDF map on the ePlanning project website, which was made available in February 2019. As noted in Appendix C of the Final EA (p. 86), the information regarding the geologic data was provided to San Miguel County on July 11, 2017.

The BLM determined that rare plants outside of the proposed Gypsum Valley ACEC have adequate protections in the TRFO RMP (2015, see Table 3.6, II-42 of Approved RMP). Such protections include restrictions to avoid gypsum soils in the Gypsum Valley ACEC and involve fire management actions, commercial seed collection, rights-of-way and utility corridors, facilities, summer and winter motorized vehicle use, non-motorized and mechanized activities, road construction, or leasable and salable mineral activities. In addition, no specific threats to the rare plant occurrences outside the proposed Gypsum Valley ACEC have been identified by BLM resource specialists.

## ***Endangered Species Act Consultation***

### ***San Miguel County Board of Commissioners***

#### ***Kris Holstrom***

**Issue Excerpt Text:** BLM should have consulted or reinitiated consultation with the FWS prior to making this ACEC amendment decision. The ESA requires that action agencies must reinitiate Section 7 consultation “[i]f new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered.” 50 CFR § 402.16(b). Here, the BLM knows that FWS and CPW are opposed to this decision based on how it “may effect” the Gunnison sage-grouse and its critical habitat. This is enough to trigger consultation. The programmatic BO did not consider the impacts of this decision and BLM is in violation of the ESA by moving forward without engaging in formal consultation pursuant to section 7 of the ESA.



**Summary:**

The BLM is in violation of section 7 of the Endangered Species Act (ESA) because it failed to consult or re-initiate consultation with the U.S. Fish and Wildlife Service (FWS) and instead relied on a programmatic Biological Opinion (BO) that did not consider the impacts of the ACEC decisions in the Final EA.

**Response:**

Under Section 7, Federal agencies are obliged to consult with the FWS before taking an action that may affect a listed endangered or threatened species and to use the information to ensure that the species in question are not harmed (16 U.S. Code [U.S.C.] § 1536(a)(2)). The BLM did not consult with the FWS on the ACEC amendment because the two ACECs with Gunnison Sage-Grouse were not carried forward or analyzed in the amendment and the agency was not contemplating an action related to a threatened or endangered species.

Instead, the two ACECs will be analyzed in the Gunnison Sage-Grouse Rangewide Plan Amendment (GuSG Rangewide Plan Amendment) with direct involvement from the FWS. As the BLM has noted previously, the GuSG Rangewide Plan Amendment is presently on hold until the FWS completes the species recovery plan. The FWS published a notice of availability and request for public comment of the draft recovery plan for Gunnison Sage-Grouse in the *Federal Register* on November 1, 2019 (see the notice here: <https://www.federalregister.gov/documents/2019/11/01/2019-23894/endangered-and-threatened-wildlife-and-plants-draft-recovery-plan-for-the-gunnison-sage-grouse>, last accessed 11/07/2019). The BLM will coordinate with the FWS to determine if additional land use planning is necessary to assist in implementation of the recovery plan and which existing management decisions may require modification.

Analyzing the two ACECs as part of a future Gunnison Sage-Grouse specific land use plan is appropriate because that planning effort will provide a comprehensive approach to species conservation across all BLM field offices rangewide and facilitate an informed analysis. Existing management in the TRFO RMP (2015), the requirements of Section 7 of the ESA, and continued interim management of these areas to preserve relevant and important values will serve to preserve these values. The FWS recovery plan provides a management framework to manage Gunnison Sage-Grouse.

The FWS BO on the TRFO RMP concluded: “Implementation of the revised RMP, including the conservation measures and use stipulations, will reduce multiple threats to the GUSG and could restore the species to formerly occupied range through proposed habitat improvement projects. Specifically, conservation measures under the oil and gas availability decision will provide GUSG habitat protections from direct and indirect effects.” Recent TRFO lease sales have deferred parcels in Gunnison Sage-Grouse habitat pending completion of the GuSG Rangewide Plan Amendment. The BLM evaluates the impacts of making lands in the Planning Area open to oil and gas leasing under appropriate resource protection stipulations per the TRFO RMP. If proposed development could affect the Gunnison Sage-Grouse or its habitat, then the BLM would be required to consult with the FWS under the ESA.

***Federal Land Policy and Management Act – Areas of Critical Environmental Concern***

***San Miguel County Board of Commissioners  
Kris Holstrom***

**Issue Excerpt Text:** The Tres Rios Field Office has historically failed to comply with FLPMA’s requirement to prioritize ACEC designation, a trend which continues with this RMP amendment and EA. The purpose of this particular planning process is to rectify BLM’s failure to consider designating 16 potential ACECs during the course of the Tres Rios Resource Management Plan revision, in violation of

FLPMA and agency guidance. Now, BLM has failed to prioritize ACEC designation once again, as the EA identifies 17 potential ACECs totaling more than 80,000 acres - but would only designate 3 in the preferred alternative. What's more, while the preferred alternative would designate one new ACEC, BLM proposes to greatly reduce the acreage of existing ACECs so that the total ACEC acreage remains on balance at a mere 14,000 acres across the entire Tres Rios Field Office. This does not evidence meaningful consideration of, or prioritization of, ACEC designation and constitutes an arbitrary and capricious determination, which is contrary to law.

***San Miguel County Board of Commissioners***

***Kris Holstrom***

**Issue Excerpt Text:** BLM is abdicating its management responsibility for Gunnison sagegrouse, in violation of FLPMA and the Endangered Species Act. According to the EA, BLM is not considering designating the Dry Creek Basin and Northdale ACECs, even though they meet the relevance and importance criteria and thus are potential ACECs, because they are “being considered as part of the Gunnison Sage-Grouse Rangewide Draft Resource Management Plan Amendment process.” EA, p. 2. This approach is untenable because: (1) the Gunnison Sage-Grouse Rangewide Draft Resource Management Plan Amendment (GUSG RMPA) process is on hold indefinitely; (2) There is no indication when a recovery plan for the Gunnison sage-grouse may be completed; (3) Expert wildlife agencies (U.S. Fish and Wildlife Service, and Colorado Parks and Wildlife) are objecting to this approach (EA, p. 78-79), (4) BLM is continuing to make management decisions, such as selling oil and gas leases, that imperil Gunnison sage-grouse; (5) the Endangered Species Act (ESA) and BLM Manual 6840 Require BLM to conserve Gunnison sage-grouse; and (6) those ACECs contain relevant and important values in addition to Gunnison sage-grouse.

***San Miguel County Board of Commissioners***

***Kris Holstrom***

**Issue Excerpt Text:** The U.S. Fish and Wildlife Service commented that, In your current EA you state that the Dry Creek Basin and Northdale potential ACECs are not being considered in this analysis because they are to be considered as part of the Gunnison sage grouse rangewide draft RMPA process. We recommend, however, that these two potential ACECs remain under consideration in this analysis. We recommend against deferral of consideration of these potential ACECs to the rangewide RMPA process because: 1) the rangewide RMPA process is currently on hold, and 2) to our knowledge, the last draft of the rangewide RMPA did not contain ACEC designation for either of these areas in the preferred alternative. EA, p. 78. Further, Colorado Parks and Wildlife commented that, ...in light of BLM's indefinite suspension of work on the Gunnison Sage-grouse Rangewide Plan Amendment in 2018, we are frustrated that the TRFO has not included the GUSG ACECs (Dry Creek Basin and Northdale) in the current EA. Accordingly, we ask BLM to revise the Proposed Action and the analysis in the EA to include designation of the Northdale and Dry Creek Basin ACECs. EA at 79. These same expert agencies urged the BLM not to lease parcels for oil and gas development in this area that would diminish the quality of habitat for the Gunnison sage-grouse. The United States Fish and Wildlife Service commented that “Due to the potential for indirect impacts to GUSG in the San Miguel population, we recommend deferral of parcels adjacent to occupied critical habitat...until the BLM GUSG plan amendment process is finished.” It is possible that GUSG protections will be identified in the plan amendment that are not currently contained within the Tres Rios RMP, and, therefore, not currently applied to any parcels currently under consideration for leasing. This could include protections related to indirect, disruptive effects from oil and gas activity conducted outside of GUSG occupied habitat. PEA Comments Attachment 1. While Colorado Parks and Wildlife commented that, “We remain concerned about indirect disturbance to GUSG from drilling operations and the increased noise and disturbance associated with increased truck traffic on existing and potential new roads through GUSG habitat to access parcels 7795,7797, 7798, 7799, 7801, 7802, and 7805. This issue is not addressed in the existing LRMP or through existing stipulations.” Id. Ignoring the comments of expert wildlife agencies in regards to oil and gas leasing decisions and deferring designation of ACECs highlights the blatant pattern of BLM failing to

consider the best scientific information, failing to adhere to its public management mandates, and highlights the arbitrary and capricious nature of this decision.

***San Miguel County Board of Commissioners***

***Kris Holstrom***

**Issue Excerpt Text:** BLM’s pattern of delay in considering designation of the potential Dry Creek Basin and Northdale/Northdale expansion ACECs is not consistent with FLPMA’s direction to “give priority to the designation and protection of ACECs.” Passing this obligation onto another agency is equally unlawful. BLM must designate the potential Dry Creek Basin and Northdale/Northdale expansion ACECs now through the Tres Rios ACEC Amendment process. Failure to do so is arbitrary, capricious, and contrary to law

***San Miguel County Board of Commissioners***

***Kris Holstrom***

**Issue Excerpt Text:** FLPMA also requires BLM to “...promptly develop management prescriptions to protect qualifying ACECs.” BLM does not have measures in place in the Tres Rios RMP or elsewhere to protect Gunnison sage-grouse in these potential ACECs until they have been considered for designation. The management prescriptions in the Tres Rios RMP are inadequate to conserve the Gunnison sage-grouse populations that occupy these potential ACECs, or the species’ designated critical habitat within these ACECs (See Attachment 2, pp. 15-16, and Attachment 2a). In fact, BLM initiated the GUSG RMPA process to amend all of the Resource Management Plans (RMPs) within the range of the Gunnison sage-grouse, including the Tres Rios RMP, to address the lack of adequate regulatory mechanisms to address threats to Gunnison sage-grouse in the existing RMPs. While this process is currently on hold, the alternatives in the BLM Gunnison SageGrouse Rangewide Draft RMP Amendment/EIS include a number of management prescriptions aimed at addressing threats to the San Miguel Basin and Dove Creek populations that are not addressed by the Tres Rios RMP.

***San Miguel County Board of Commissioners***

***Kris Holstrom***

**Issue Excerpt Text:** Interestingly, the EA states: “The 16 remaining nominated areas are being managed to protect the relevance and importance criteria until a decision is made through the Amendment process (BLM Manual 1613 Section .21, E.)” EA, p. 2. While this is the correct approach to comply with BLM policy, this statement does not reflect the fact that this is not possible because the Tres Rios RMP does not include adequate management prescriptions to protect Gunnison sagegrouse, nor does it reflect the situation on the ground, as described above. Therefore, BLM needs to consider and designate these ACECs in this planning process and provide meaningful interim protections for the potential ACECs pending finalization of a designation decision. If BLM does not consider and designate these ACECs in this planning process, then BLM must put a moratorium on authorizing any management actions with potential to have any negative impacts on Gunnison sage-grouse in these potential ACECs until the GUSG RMPA process has been completed, to avoid foreclosing management options for these potential ACECs within the range of alternatives in the Draft GUSG RMPA.

**Summary:**

The BLM has violated the Federal Land Policy and Management Act of 1976 (FLPMA) by failing to give priority to the designation and protection of ACECs. The BLM’s delay in considering designation of the potential Dry Creek Basin and Northdale ACECs is not consistent with FLPMA’s direction to “give priority to the designation and protection of ACECs.”

**Response:**

In FLPMA Section 103(a), an ACEC is defined as “an area on BLM-administered lands where special management attention is required to protect and prevent irreparable damage to important historic, cultural,

or scenic values; fish and wildlife resources; or other natural systems or processes, or to protect life and ensure safety from natural hazards” (43 U.S.C. § 1702(a)). This special designation is used to delineate areas for special management to protect important and relevant resource values. Furthermore, FLPMA Section 202(c)(3) requires that the BLM give priority to the designation and protection of ACECs during the development and revision of land use plans (43 U.S.C. § 1712(c)(3)). The implementing regulations at 43 CFR 1610.78-2 provide the agency with guidance for the identification and consideration of ACECs for designation and protection during the resource management planning process. However, there is no statutory or regulatory requirement that the BLM designate any or all ACECs identified or considered during the planning process. The BLM ACEC manual (MS-1613) establishes the agency’s policy and procedures for the evaluation and designation of ACECs as part of the land use planning process.

The BLM has discretion to designate all, some, or none of the potential ACECs that were evaluated during the planning process; there is no requirement that the agency carry forward potential ACECs (see BLM Manual 1613.33.E).

In accordance with BLM Manual 1613, the BLM interdisciplinary team reviewed BLM-administered lands in the Planning Area to determine whether new areas should be considered for designation as ACECs, and whether existing ACECs should continue to be managed as ACECs, or if they should be expanded or reduced to protect the ACEC values. The BLM determined that management actions as applied under the Proposed Alternative C provide adequate protection for the relevant and important values of those potential ACECs that were not carried forward for designation.

As described on page 2 of the Final EA, the management protections in place for the areas nominated as the Northdale and Dry Creek Basin ACECs are sufficient (i.e., such measures as necessary to protect resource values from degradation) to protect the relevance and importance values until a future decision is made through the GuSG Rangewide Plan Amendment process. With respect to oil and gas management, the BLM evaluated the impacts of making lands in the Planning Area open to oil and gas leasing under appropriate resource protection stipulations per the TRFO RMP (2015), for which the FWS issued a BO that concluded: “Implementation of the revised [Land and Resource Management Plan], including the conservation measures and use stipulations, will reduce multiple threats to the [Gunnison Sage-Grouse] and could restore the species to formerly occupied range through proposed habitat improvement projects. Specifically, conservation measures under the oil and gas availability decision will provide [Gunnison Sage-Grouse] habitat protections from direct and indirect effects.” Furthermore, recent TRFO lease sales have deferred parcels in Gunnison Sage-Grouse habitat pending completion of the GuSG Rangewide Plan Amendment and the BLM will continue to do so until the amendment is complete. With respect to oil and gas management, the BLM evaluated the impacts of making lands in the Planning Area open to oil and gas leasing under appropriate resource protection stipulations per the TRFO RMP. The BLM consulted with the FWS on the TRFO RMP under Section 7 of the ESA. After reviewing the potential effects on Gunnison Sage-Grouse and its critical habitat that could result from implementation of the 2015 TRFO RMP, FWS adopted its March conference opinion as its BO for the 2015 TRFO RMP. If proposed development could affect the Gunnison Sage-Grouse or its habitat, then the BLM would be required to consult with the FWS under the ESA (see p. 81, Appendix C of the Final EA).

The decision to defer the EA analysis of the Northdale and Dry Creek Basin areas was made to allow the FWS to complete the Gunnison Sage-Grouse recovery plan, which is expected in October of 2020, that will inform management objectives for Gunnison Sage-Grouse habitat. Additionally, the GuSG Rangewide Draft Amendment, which is on hold until release of the FWS final recovery plan, will provide the BLM with a comprehensive approach to species conservation across all BLM field offices rangewide and facilitate an informed analysis, as the agency discussed on page 78 of the Final EA. In the meantime, the existing management in the TRFO RMP and the requirements of Section 7 of the ESA, as discussed above, will sufficiently protect the relevance and importance values identified for the proposed ACECs.

## ***NEPA – Impact Analysis on Areas of Critical Environmental Concern***

### ***San Miguel County Board of Commissioners***

#### ***Kris Holstrom***

**Issue Excerpt Text:** The EA does not adequately analyze the beneficial impacts that ACEC designation and the associated management prescriptions would have on the values within the Dolores River corridor. While the EA argues that the change in how camping is managed would have negligible effects on bighorn (EA, p. 33), it does not discuss how additional restrictions on mining operations and rights-of-way would impact resources. Conducting more thorough NEPA analysis would allow the public to better understand the benefits of ACEC designation and would allow the agency to make more informed decisions

#### **Summary:**

The BLM failed to adequately analyze the beneficial impacts that ACEC designation and the associated management prescriptions would have on the values within the Dolores River corridor.

#### **Response:**

An Environmental Assessment is intended to be a concise public document that provides sufficient evidence and analysis for determining the significance of effects from a proposed action (40 CFR 1508.9) and that serves as a basis for reasoned choice (BLM NEPA Handbook H-1790-1, Section 8.1). NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the TRFO Proposed ACEC RMP Amendment and Final EA.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning–level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions (e.g., the BLM is not approving an Application for Permit to Drill to start drilling), the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

As noted in the ACEC Report (2017), the potential Dolores River Canyon ACEC meets relevance criteria for cultural resources, scenic values, fish and wildlife resources, and natural processes. Resource values identified for the potential Dolores River Canyon ACEC and the full range of threats to relevance and importance values are discussed in Section 3.1.1 of the Final EA. Section 2.6 of the Final EA (p. 16) notes that Alternative D would provide protection of cultural resource areas and focus key management actions for plant and animal species (BLM Sensitive plant and wildlife species and associated habitat). Section 4.4.4 (Alternative D) of the Final EA notes that “New utilities and [rights-of-way] would be restricted or prohibited in all of the proposed ACECs. These restrictions would reduce or eliminate potential adverse effects to cultural resources, rare plants, and desert bighorn sheep and associated habitat that could have resulted from new [right-of-way] construction and operation within the proposed ACECs” (p. 32). Furthermore, the section describes how surface restrictions would affect solid and fluid mineral exploration and development and recreation activities, among other topics; therefore, the Final EA adequately analyzes the impacts that ACEC designation and the associated management prescriptions would have on the values within the Dolores River corridor.

The BLM complied with NEPA’s requirement to analyze the environmental consequences and impacts on the Dolores River corridor in the TRFO Proposed ACEC Amendment and Final EA.