

***Land Use Planning Protest Resolution
Report***

for the

**Lewistown
Proposed Resource
Management Plan
and Final EIS**

December 28, 2020

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ACRONYMS AND ABBREVIATIONS

ACEC	Area of critical environmental concern
AMS	analysis of the management situation
APD	application for permit to drill
ARTSD	Air Resource Technical Support Document
AUM	animal unit month
BCA	backcountry conservation area
BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CO₂	carbon dioxide
EIS	environmental impact statement
ESA	Endangered Species Act
EPA	Environmental Protection Agency
FEIS	Final Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act of 1976
GHMA	general habitat management area
GHG	greenhouse gas
GRSG	greater sage-grouse
GWP	global warming potential
IMPLAN	Impact Analysis for Planning
IPCC	Intergovernmental Panel on Climate Change
LFO	Lewiston Field Office
NEPA	National Environmental Policy Act
NSO	no surface occupancy
ORV	oustandingly remarkable value
PHMA	priority habitat management area
PRMP	Proposed Resource Management Plan
RDF	required design feature
RMP	resource management plan
ROW	right-of-way
SRMA	special recreation management area
US	United States
USFWS	US Fish and Wildlife Service
VCC	vegetation condition class
WSCT	westslope cutthroat trout

INTRODUCTION

Upon release of the Lewistown Final Environmental Impact Statement (FEIS) and Proposed Resource Management Plan (PRMP), a 30-day protest period began on February 14, 2020, at which time any person who previously participated in the planning process and had an interest that is, or may be, adversely affected by the Proposed Plan could submit a protest on the Proposed Plan. A protest could raise only those issues that were submitted for the record during the planning process.

All protests had to be in writing and filed with the Bureau of Land Management (BLM), either as a hard copy or electronically via the BLM's ePlanning website, by the close of the protest period, which was March 16, 2020. All protest letters sent to the BLM via fax or email were considered invalid unless a properly filed protest was also submitted.

The ePlanning webpage contained a tool for submitting a valid protest electronically. The link to the project page where a protest could be filed was included in the Notice of Availability for the FEIS and PRMP, and in related news releases, newsletters, and a Dear Reader letter.

The following items must have been included to constitute a valid protest (see 43 Code of Federal Regulations [CFR] 1610.5-2):

- The name, mailing address, telephone number, and interest of the person filing the protest (in other words, how the protestor will be adversely affected by the approval or amendment of the plan)
- A statement of the issue or issues being protested
- A statement of the part or parts of the plan or amendment being protested
- A copy of all documents addressing the issue or issues that were submitted during the planning process by the protesting party, or an indication of the date the issue or issues were discussed for the record
- A concise statement explaining why the State Director's decision is believed to be wrong

It must be in the record that the protest issue has been raised in the planning process before, or that the issue provides significant new information (in other words, it came to light near the end of the draft resource management plan [RMP] or RMP amendment comment period).

The protest must relate to a planning issue, not an implementation issue. The protest should clearly state what law/regulation/policy the BLM is violating (i.e., names the law/regulation/policy), and explain why the PRMP or RMP amendment violates the stated law/regulation/policy.

The BLM informed protestors that before including their personal identifying information in their protests, their entire protest—including personal identifying information—may be made publicly available at any time. The BLM cannot guarantee that personal identifying information will be withheld upon request.

The protesting party index table, below, is a list of the letters received during the protest period, and the determination of the protest validity and how it was addressed.

PROTESTING PARTY INDEX TABLE

Letter Number (PP-MT-LEW-20-)	Protester	Organization	Determination
30	Amnotte, David	N/A	Dismissed – Incomplete*
132	Angstead, Zachary	Northern Rocky Mountain Grotto	Denied – Issues and Comments
66	Armstrong, Daniel	N/A	Dismissed – Incomplete*
63	Balasky, Cathy	N/A	Dismissed – Incomplete*
76	Barkley, Steven	N/A	Dismissed – Incomplete*
110	Becker, Chad	N/A	Dismissed – Comments only
21	Benson, Steven	N/A	Dismissed – Incomplete*
133	Bertram, Aubrey	N/A	Denied – Issues and Comments
25	Boschert, John	N/A	Dismissed – Incomplete*
41	Brooks, Ellen	N/A	Dismissed – Incomplete*
4	Brown, James	Montana Wool Growers Association	Dismissed – No Standing
94	Brownlee, Peg	N/A	Dismissed – Incomplete*
86	Cannon, Julie	N/A	Dismissed – Incomplete*
113	Carson, Millie	N/A	Dismissed – Incomplete*
75	Cassidy, Katharine	N/A	Dismissed – Incomplete*
31	Center, Dean	N/A	Dismissed – Incomplete*
91	Church, Michael	N/A	Dismissed – Incomplete*
27	Clawson, William	N/A	Dismissed – Incomplete*
109	Consolvo, Camille	N/A	Dismissed – Comments only
36	Crawford, Del	N/A	Dismissed – Incomplete*
83	Crichton, Mel	N/A	Dismissed – Incomplete*
48	Cumin, Cal	N/A	Dismissed – Comments only
112	Dahl, Jill	N/A	Dismissed – Incomplete*
50	Davis, John	N/A	Dismissed – Incomplete*
47	DeGroot, Richard	N/A	Dismissed – Incomplete*
12	Demeler, Borries	N/A	Dismissed – Incomplete*
37	Denney, Teresa	N/A	Dismissed – Incomplete*
92	Dent, Debbie	N/A	Dismissed – Incomplete*
99	Divoky, Dennis	N/A	Dismissed – Incomplete*
138	Doughty, Paul	N/A	Denied – Issues and Comments
7	Eldredge, Bonnie	N/A	Dismissed – Incomplete*
8	Engell, Kezia	N/A	Dismissed – Incomplete*
120	Enk, Michael	N/A	Denied – Issues and Comments
85	Ferguson, Jennifer	N/A	Dismissed – Incomplete*
24	Fleckman, Adrienne	N/A	Dismissed – Incomplete*
69	Friend, Joshua	N/A	Dismissed – Incomplete*
111	Gallagher, Amy	N/A	Dismissed – Incomplete*
143	Gary Bertellotti	Montana Fish, Wildlife and Parks	Denied – Issues and Comments
93	Gaul, William	N/A	Dismissed – Incomplete*
6	Geery, Emily	N/A	Dismissed – Incomplete*
34	Gies, Toni	N/A	Dismissed – Incomplete*
70	Goeltz, Paul	N/A	Dismissed – Incomplete*
130	Good, Mark	N/A	Denied – Issues and Comments
88	Goudy, James	N/A	Dismissed – Incomplete*
28	Gravance, Rochelle	N/A	Dismissed – Incomplete*
46	Guynn, Dwight	N/A	Dismissed – Incomplete*

Letter Number (PP-MT-LEW-20-)	Protester	Organization	Determination
147, 148	Hanley, Jerry	N/A	Denied – Issues and Comments
149	Hauser, Calvin	N/A	Denied – Issues and Comments
17	Hagel, Matt	N/A	Dismissed – Incomplete*
55	Hammond, Kristine	N/A	Dismissed – Incomplete*
87	Hanson, Mark	N/A	Dismissed – Incomplete*
9	Hayes, Emily	N/A	Dismissed – Incomplete*
13	Healy, Josh	N/A	Dismissed – Incomplete*
71	Heffernan, Katherine	N/A	Dismissed – Incomplete*
38	Helvey, Isaac	N/A	Dismissed – Incomplete*
64	Hess, Sarah	N/A	Dismissed – Incomplete*
58	Hill, Marilyn	N/A	Dismissed – Incomplete*
114	Hoehn, Nathan	N/A	Dismissed– Comments only
134	Hornbein, Melissa	Western Environmental Law Center, Montana Environmental Information Center, WildEarth Guardians	Denied – Issues and Comments
29	Hudson, William	N/A	Dismissed – Incomplete*
78	Hurley, Patrick	N/A	Dismissed – Incomplete*
129	Jennings, Charles	N/A	Denied – Issues and Comments
137	Jennings, Gerry	N/A	Dismissed – Incomplete*
95	Jochem, Nancy	N/A	Dismissed – Incomplete*
139	Juel, Jeff	N/A	Denied – Issues and Comments
131	Juel, Jeffrey	Alliance for the Wild Rockies	Denied – Issues and Comments
135	Kerr, Rick	N/A	Denied – Issues and Comments
60	Kilmer, Thomas	N/A	Dismissed – Comments only
104	Kotynski, Tom	N/A	Denied – Issues and Comments
23	Krebill, Kerry	N/A	Dismissed – Incomplete*
96	Kreidler, Jeffrey	N/A	Dismissed – Incomplete*
77	Lannen, Shuddhabha	N/A	Dismissed – Incomplete*
40	Latterell, Kim	N/A	Dismissed – Incomplete*
121	Leroux, Jocelyn	Western Watersheds Project	Denied – Issues and Comments
122-128	Leroux, Jocelyn (Attachments)	Western Watersheds Project	Denied – Issues and Comments
54	Loutit, Debra	N/A	Dismissed – Incomplete*
72	Lunde, Eric	N/A	Dismissed – Incomplete*
73	Lunde, Eric	N/A	Dismissed – Incomplete*
108	Lydon, Sally	N/A	Dismissed – Incomplete*
79	Mabbott, Charles	N/A	Dismissed – Incomplete*
80	Mabbott, Charles	N/A	Dismissed – Incomplete*
97	Mackin, Robert	N/A	Dismissed – Incomplete*
118	Madden, Elizabeth	N/A	Dismissed – Comments Only
141	Mari, David	N/A	Denied – Issues and Comments
59	Marty, Leslie	N/A	Dismissed – Incomplete*
42	McFadden, Beth	N/A	Dismissed – Incomplete*
149	Mercenier, Jacqueline	N/A	Dismissed – Comments only
53	Morani, Robert	N/A	Dismissed – Incomplete*

Letter Number (PP-MT-LEW-20-)	Protester	Organization	Determination
62	Mueller, Lisa	N/A	Dismissed – Incomplete*
150	Murnion, David	N/A	Dismissed – Comments only
142	Neal, Clay and Kelsey		Dismissed – Standing
81	Oakland, Martin	N/A	Dismissed – Incomplete*
90	O'Bannon, John	N/A	Dismissed – Incomplete*
65	OConnell, Jerry	N/A	Dismissed – Incomplete*
140	Otto, Chuck	Anaconda Sportsmen's Club	Denied – Issues and Comments
43	Parks, Littlebird	N/A	Dismissed – Incomplete*
1	Parsons, Tom	N/A	Dismissed – Incomplete*
82	Perryman, Toddy	N/A	Dismissed – Incomplete*
33	Phillips, Patrick	N/A	Dismissed – Incomplete*
144	Poertner, Ron	Missouri River Stewards	Denied – Issues and Comments
89	Rasch-Hall, Maryellen	N/A	Dismissed – Incomplete*
52	Rhoades, Martha	N/A	Dismissed – Incomplete*
51	Rhodes, Douglas	N/A	Dismissed – Incomplete*
100	Rillema, Gary	N/A	Dismissed – Incomplete*
74	Robertson, David	N/A	Dismissed – Incomplete*
106	Robinson, Linda	N/A	Dismissed – Incomplete*
98	Saile, Kipp	N/A	Dismissed – Incomplete*
61	Schatz, Deborah	N/A	Dismissed – Incomplete*
84	Schmit, Paul	N/A	Dismissed – Incomplete*
107	Shapiro, Sheila	N/A	Dismissed – Incomplete*
45	Showen, Kathryn	N/A	Dismissed – Comments only
35	Sikorski, Wade	N/A	Dismissed – Incomplete*
102	Simmons, John	N/A	Dismissed – Incomplete*
101	Simmons, Marilyn	N/A	Dismissed – Incomplete*
115	Simons, James	N/A	Denied – Issues and Comments
116	Simons, James (Attachment)	N/A	Denied – Issues and Comments
117	Simons, James (Attachment)	N/A	Denied – Issues and Comments
14	Smith, Douglas	N/A	Dismissed – Incomplete*
11	Southworth, Mary	N/A	Dismissed – Incomplete*
105	Starshine, Dorothy	N/A	Dismissed – Incomplete*
119	Steinmuller, Patti	N/A	Denied – Issues and Comments
39	Stewart, Sarah	N/A	Dismissed – Incomplete*
67	Stewart, Sarah	N/A	Dismissed – Incomplete*
146	Taylor, Nolan	N/A	Dismissed – Standing
10	Tomkiewicz, Jeremy	N/A	Dismissed – Incomplete*
44	Tompkins, Ed	N/A	Dismissed – Incomplete*
56	Trousdale, David	N/A	Dismissed – Incomplete*
57	Trousdale, David	N/A	Dismissed – Incomplete*
145	Van Setten, Keith	Office of the Teton County Sheriff	Dismissed– Comments only
26	Von Stutterheim, Klaus	N/A	Dismissed – Incomplete*
5	Waldby, Gail	N/A	Dismissed – Comments only
18	Wall, William	N/A	Dismissed – Incomplete*

Letter Number (PP-MT-LEW-20-)	Protester	Organization	Determination
103	Welch, Toby	N/A	Dismissed – Standing
3	Whirry, Gordon	Montana Wilderness Association	Denied – Issues and Comments
20	Wiley, Sam	N/A	Dismissed – Incomplete*
16	Williams, Jacob	N/A	Dismissed – Incomplete*
136	Wilsey, David	N/A	Dismissed – Comments only
49	Winestine, Zack	N/A	Dismissed – Incomplete*
19	Young, Carol	N/A	Dismissed – Incomplete*
32	Zaideman, Julie	N/A	Dismissed – Incomplete*
68	Zephyrs, Jessica	N/A	Dismissed – Incomplete*
22	Zimney, Raymond	N/A	Dismissed – Incomplete*
15	Zimny, Carol	N/A	Dismissed – Incomplete*

* The protesting party did not include one or more of the requirements at 43 CFR 1610.5-2(a)(2)(i)–(v) with their submission:

- The name, mailing address, telephone number, and interest of the person filing the protest
- A statement of the issue(s) being protested
- A statement of the part(s) of the Proposed Plan or amendment being protested
- A copy of all documents addressing the issue(s) that were submitted during the planning process by the protesting party or an indication of the date the issue or issues were discussed for the record during the planning process (at a minimum, the protesting party must indicate how they participated in the planning process)
- A concise statement explaining why the State Director’s decision is believed to be wrong

The 30-day protest period ended on March 16, 2020. The BLM then reviewed all protest issues for the proposed planning decisions in accordance with 43 CFR 1610.5-2. The BLM’s Acting Assistant Director for Resources and Planning concluded that the BLM Montana State Director followed the applicable laws, regulations, and policies, and considered all relevant resource information and public input. The Acting Assistant Director for Resources and Planning addressed the protests and on June 9, 2020 issued a Protest Resolution Report to protesting parties and posted the Report on the BLM’s website – no changes to the Proposed RMP were necessary. The decision for each protest, regarding its validity and its approval or denial, was recorded in writing along with the reasons for the decision. The decision was sent to the protesting party by certified mail, return receipt requested.

On October 16, 2020, the United States District Court for the District of Montana set aside the Lewistown Approved RMP because the Court determined that William Perry Pendley “exercised the Director’s exclusive authority to resolve protests” on proposed RMP decisions. The Department disagrees with the court’s decision, and, as particularly relevant here, with the assertion that only the BLM Director may resolve protests on resource management plans. Moreover, as described above, Mr. Pendley did not actually resolve the protests for the Lewistown RMP. Nonetheless, the Department recognizes that the Court has set aside the Lewistown RMP based on its conclusions to the contrary. Accordingly, following the Court’s order, the Secretary and his staff completed an independent evaluation of a proposed Protest Resolution Report and Proposed Record of Decision. Following that review, the Secretary approved this Protest Resolution Report, issued a written decision to protesting parties, and posted this Report on the BLM’s website. The decision of the Secretary is the final decision of the Department of the Interior.

Specific information related to the protests received can be found below.

PROTEST ISSUE BY TOPIC AREA

AIR RESOURCES, INCLUDING GREENHOUSE GASES

Enk, Michael

Issue Text Excerpt: (The FEIS fails..) to fully address climate change from the burning of oil and gas extracted from leased lands. The BLM has an obligation to consider the effects of oil and gas leasing on our climate using the best available science. This is undeniably an issue of cumulative effects.

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: The FEIS does not adequately analyze existing and reasonably foreseeable climate change impacts as part of the affected environment, does not assess them as part of the analysis of impacts, and fails to integrate them into each of the alternatives. The BLM did not consider the cumulative impacts likely to result from road activities and climate change.

Issue Text Excerpt: The BLM fails to provide anything like a comprehensive estimate of the total amount of carbon dioxide (CO₂) and other greenhouse gas emissions from BLM management actions and policies-at the Field Office level, regionally, or nationally.

Issue Text Excerpt: The FEIS fails to analyze and disclose the full extent of climate change direct, indirect, and cumulative effects the RMP alternatives would cause, in violation of NEPA. The FEIS fails to consider best available science on the subject, in violation of NEPA.

Issue Text Excerpt: FEIS Appendix X (Response to Comments) states, "Appendix C of the Air Resources Technical Support Document (ARTSD) contains information on emissions related to forestry, oil and gas, livestock grazing, fire management and Coal Bed natural gas and has been posted to the website (ePlanning)." This version of the ARTSD is dated October 2019. The earlier version dated 2016 had little on this subject other than estimates of greenhouse gas (GHG) emissions by alternative. So the public and other government agencies had not opportunity to comment on the climate change analysis included in the 2019 ARTSD. Still, the 2019 ARTSD is hardly an analysis of climate change and carbon sequestration, and fails completely to address the scientific and social issues we raised in our comments on the Draft RMP/DEIS.

Good, Mark/Kerr, Rick

Issue Text Excerpt: By encouraging more fossil fuel development at a time when we should be reducing fossil fuel use, the plan also fails to address this serious environmental issue. The BLM has an obligation to consider the effects of oil and gas leasing on our climate using the best available science and acting on that information. This is undeniably an issue of the failure of the BLM to address cumulative effects.

Leroux, Jocelyn (Western Watersheds Project)

Issue Text Excerpt: BLM acknowledges that "climate variability is occurring and would continue to occur for many years due to the longevity of GHGs that are already in the atmosphere," yet only offers one alternative that would reduce the number of GHGs released. BLM also states that "effects from GHG emissions would be long-term effects that would contribute to climate variability for beyond the life of the plan. Climate variability also poses challenges for many resource uses on BLM-administered land. Increased temperatures, drought, and evaporation may reduce seasonal water supplies for livestock and could affect forage availability." (Sec 4.2.1 p. 4-7) Yet, the proposed alternative (C2) fails to reduce GHG emissions over the life of the plan. In fact, Alternative C2 would increase total emissions of CO₂ and CO₂e.

Summary:

The BLM does not utilize the best available science regarding climate change impacts in the FEIS. Additionally, the BLM fails to adequately analyze existing and reasonably foreseeable climate change

impacts at multiple levels or consider these impacts as it designed the alternatives. Furthermore, the proposed alternative (C2) fails to reduce GHG emissions over the life of the plan. In fact, Alternative C2 would increase total emissions of CO₂ and carbon dioxide equivalent.

Response:

The National Environmental Policy Act (NEPA) directs that data and analyses in an environmental impact statement (EIS) must be commensurate with the importance of the impact (40 CFR 1502.15), and that 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)).¹ The BLM is required to take a “hard look” at the potential environmental impacts of adopting the PRMP/FEIS.

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. The baseline data provide the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decisions or actions (e.g., the BLM is not approving an application for permit to drill [APD] to start drilling), the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse. Appendix W of the PRMP/FEIS (Table W-1) estimates the number of wells, by alternative, through 2033. There is only a difference of six wells on federal mineral estate between the Proposed Plan and Alternative B. The Lewistown PRMP/FEIS incorporates the ARTSD, which provides comprehensive emission estimates for oil and gas operations at three types of wells: oil, Coalbed natural gas (CBNG), and conventional natural gas. A draft ARTSD was released to support the Lewistown Draft RMP/Draft EIS. The ARTSD was modified and finalized in 2019 to support the Lewistown PRMP/FEIS.

Table 2 (ARTSD 2019) summarizes estimates of new oil, CBNG, and gas wells that could potentially be developed under each of the alternatives. Table 25 (ARTSD 2019) shows a comparison of GHG emissions using the 20-year and 100-year time horizon using current global warming potential (GWP) for each alternative. Indirect emissions are listed in Appendix W (PRMP/FEIS). Emission estimates project the volume of GHGs that could be released into the atmosphere in the future from initial well site construction, well drilling and completion, production, and end use. The ARTSD presents quantified estimates of potential direct and indirect GHG emissions associated with the future predicted oil and gas development on the leases. However, it must be emphasized that GHG emission estimates involve uncertainties, including:

- Drilling time and equipment improvements; for example, deeper wells require engines with a greater horsepower and take longer to drill, but they may produce for shorter or longer periods of time.

¹ References to the CEQ regulations throughout this protest resolution report and within the underlying EIS are to the regulations in effect prior to September 14, 2020. The revised CEQ regulations effective September 14, 2020 are not referred to in this protest resolution report or in the underlying EIS because the NEPA process associated with the proposed action began prior to this date. See 40 CFR 1506.13.

- Inherent uncertainty factor in GWPs, currently estimated to be ± 35 percent, that change with new scientific evidence and laboratory results
- Unknown factors about actual production rates that may change with time
- How produced substances are used
- Regulation of GHG parameters by delegated agencies
- Control technologies that are utilized at the upstream or downstream activity location(s)

In order to measure and assess the reasonably foreseeable potential for climate change, and the resultant effects of climate change, the Lewistown PRMP/FEIS analysis approach was to measure and predict emissions of GHGs. Each GHG has a GWP that accounts for the intensity of each GHG's heat-trapping effect and its longevity in the atmosphere. GWPs have been developed for several GHGs over different time horizons, including 20 years, 100 years, and 500 years. The choice of the emission metric and time horizon depends on the type of application and policy context; hence, no single metric is optimal for all policy goals. Because the GWP of a given GHG depends in part on the atmospheric lifetime of the GHG, GWP values depend on the time interval for which they are estimated. The GWP for a relatively short-lived GHG, such as methane, is larger over a short time period (for example, 20 years) as compared with a much longer time period (such as 100 years). This is because most of the methane will have reacted away well before 100 years have passed. Conversely, long-lived GHGs have a 20-year GWP that is lower than the 100-year GWP because the time-integrated radiative forcing is less (relative to CO₂) over the shorter time interval.

In the ARTSD, the BLM uses GWPs and time horizons consistent with the United States (US) Environmental Protection Agency to reflect the current state of science for GHG emission calculations associated with the Proposed Action. The Lewistown PRMP would result in indirect GHG emissions when the proposed leases are purchased and developed, and the product is combusted elsewhere.

The Lewistown FEIS used the Climate Change Baselines section of the BLM's 2015 Annual Report for an updated and comprehensive overview of the topography and climate for the region and a current understanding of the changes to global GHG emissions and climate that have occurred for the last few centuries. The information for the annual report section was obtained primarily from the latest Intergovernmental Panel on Climate Change (IPCC) study (Fifth Assessment Report). Climate change and climate science were refined for the Lewistown Planning Area using the Climate Change Supplementary Information Report for Montana, North Dakota, and South Dakota, Bureau of Land Management (BLM 2010a). In addition to quantifying GHG emissions, the Lewistown PRMP/FEIS provides a discussion on the physical manifestations of climate change and climate change projections at regional and state scales (Analysis of the Management Situation [AMS] November 2019). The AMS is incorporated by reference in the Lewistown PRMP/FEIS (Vol. I, page 3-1). For the PRMP/FEIS, the BLM developed projected total indirect GHG emissions estimates from the combustion of produced oil and gas for comparison across the alternatives. Table W-10 in the PRMP/FEIS shows BLM fossil fuel combustion GHG emissions by alternative. These estimates were developed using RMP-specific information for the alternatives.

For the analysis, operational, production, and construction activity data used to estimate emissions for proposed emission sources were obtained from Lewistown Field Office (LFO) staff, the reasonably foreseeable development scenario for oil and gas, and information about proposed projects in the Planning Area. A baseline summary of annual GHG emissions by county is included in the Revised Area Profile (AMS 2019, Table 7, page 18).

The BLM must also discuss the cumulative effects of the Proposed Action and the alternatives when preparing an EIS (BLM Handbook H-1790-1, Section 6.8.3). The Council on Environmental Quality

(CEQ) regulations (40 CFR 1508.7) define cumulative effects as “. . . the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions.” Appendix W discusses past, present, and reasonably foreseeable projects, plans, and actions as well as the complete cumulative effects scenario for each resource and resource use in the Lewistown PRMP/FEIS.

According to the IPCC Special Report, “uncertainties in the size of these estimated remaining carbon budgets are substantial.” The IPCC Special Report estimates the budget for a 50/50 chance of exceeding 1.5 degrees Celsius at 580 gigatons of CO₂, with an uncertainty of ±400 gigatons of CO₂. This uncertainty is nearly 70 percent of the budget and results from the precise meaning of the 1.5 degrees Celsius target, the definitions of “surface temperature” and “pre-industrial” period, the choice in observational temperature datasets, the uncertainty in non-CO₂ factors that influence warming, and if earth-system feedbacks should be taken into account. With the large uncertainty in estimating carbon budgets, it is not a useful tool for assigning a GHG emissions significance level at this time.

Furthermore, the IPCC Special Report states that proposed actions across many sectors and spatial scales are needed to reduce emissions and limit warming. There is no requirement or mechanism to apply a worldwide carbon budget to a management plan in this EIS. Evaluations of such proposed actions are beyond the scope of this EIS. Based on the disclosed GHG emissions in the EIS and the substantial uncertainties in the size of carbon budgets, including carbon budgets would not provide additional useful information to the decision-maker or the public.

The BLM’s approach recognizes that there are adverse environmental impacts associated with the development and use of fossil fuels on climate change; it quantifies potential GHG emissions estimates and discusses potential climate change impacts qualitatively, thus effectively informing the decision-maker and the public of the potential for GHG emissions and the potential implications of climate change. This approach presents the data and information in a manner that follows many of the guidelines for effective climate change communication developed by the National Academy of Sciences (National Research Council 2010).

The BLM goes through a three-step process to lease lands for oil and gas activities. The first is the RMP, a programmatic phase, which assesses multiple alternatives. The second step is a lease sale action when lease sale parcels are offered. The third step occurs when actual development is proposed when an APD is submitted and additional environmental analyses are conducted.

It can take up to 10 years from the time of an RMP issuance to the lease sale offering. During this period, the oil and gas development landscape could be much different from the time when the RMP was analyzed. During the lease sale, a comprehensive analysis of parcels offered and applicable stipulations, and a rigorous examination of current air resources, including GHG and climate change, are performed.

During the APD process, current technology and direct, indirect, and cumulative air emission impacts will be addressed, as appropriate. The three-step process allows the BLM to consider new scientific data on air resources, new emission control technologies, improvements to modeling, and GHG and climate change at the regional and global level.

The BLM considers GHG as a proxy for climate change. GHG GWPs are updated by the IPCC and EPA with continuing scientific research about the complex atmospheric interaction of GHGs in the atmosphere. As new information is available, the BLM Montana Dakotas incorporates the latest information in lease sales. For example, the March 2020 lease sales considered December 2019 regional data from the Energy Research Information to assess regional GHG impacts from wells spudded (BLM

ePlanning. DOI-BLM-MT-0000-2020-0001-EA).

The three-step process used by the BLM results in an up-to-date depiction of the current status of oil and gas development and presents a unified approach to assessing the impact of oil and gas development on GHGs and climate change. In summary, if the Lewistown leases are offered for sale in the future, individual parcels would be analyzed individually and include a comprehensive current air resource analysis.

The BLM developed the Lewistown PRMP/FEIS applying the principles of “best available” data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012). Please see response in section heading *Best Available Science* for a detailed description.

The BLM complied with the NEPA’s requirement to analyze the relevant direct, indirect, and cumulative impacts on air resources and climate in the PRMP/FEIS. While the Lewistown PRMP allows for future implementation decisions which could result in a net increase in GHG emissions, NEPA provides a process for agencies to follow for decision-making, but it does not impose a particular outcome. Accordingly, this protest is denied.

AREAS OF CRITICAL ENVIRONMENTAL CONCERN/SPECIAL DESIGNATIONS

Angstead, Zachary (Northern Rocky Mountain Grotto)

Issue Text Excerpt: *The BLM is mandated to protect significant cave resources and acknowledgement that removal of ACEC status may result in damage to caves is unacceptable. The ACEC designation should not be removed from Collar Gulch. “Management to preserve ACEC values would reduce the potential for caves to lose special resource integrity or biological communities.”*

Issue Text Excerpt: *The claim that follows from the RMP is not accurate. “While surface-disturbing activities are unlikely to directly affect the cave resource, because the BLM would not have to consider the resource when permitting activities, there could be some indirect effects.”*

Bertram, Aubrey (Montana Wilderness Association)

Issue Excerpt Text: *We protest BLM's failure to prioritize the designation and protection of ACECs within the Lewistown Resource Area, and other failures to take a "hard look" at the direct, indirect and cumulative impacts of removing ACEC designation and protection for six ACECs within the field office.*

Issue Excerpt Text: *The management stipulations outlined for the SRMAs do not adequately protect the resources for which Collar Gulch and the Scenic area were designated as ACECs, and there is absolutely no analysis nor discussion about how the agency plans to prioritize and protect those resources to fulfil its statutory duty towards these ACECs.*

Issue Excerpt Text: *The agency here fails to provide an accounting of how managing the Collar Gulch watershed as part of the larger SRMA will maintain or move these important aquatic resources towards properly functioning conditions.*

Issue Excerpt Text: *Alternative C2 proposes to eliminate every other existing ACEC in the planning area (Judith Mountains Scenic, Collar Gulch, Blind Horse, Chute Mountain, Deep Creek/Battle Creek, and Ear Mountain), with no discussion as to why the elimination of ACEC protections is in the best interest of land management, and how the very resources for which the ACECs were first designated will be protected in the future.*

Issue Excerpt Text: *It is important to note that none of the existing ACECs were recommended for elimination in the ACEC Report (Appendix T). In fact, that report recommended, based on field studies and resource analysis, expansions to several existing ACECs, as well as the designation of two more. The agency's own analysis in the ACEC report does not support its decisions in various alternatives to eliminate ACECs and dilute management*

prescriptions across the planning area.

Issue Excerpt Text: We Protest the Unexplained Diluting of Protections for Acid Shale Pine Forest and Square Butte ACECs. Acid Shale Pine Forest: Acid Shale-Pine Forest, under current management, is also a Research Natural Area (RNA) under the No Action Alternative and current management plan because of its unique plant communities on the prairie: rare soils found in this ACEC support unique communities of plants not found elsewhere in Montana.

Issue Excerpt Text: Alternative C2, Acid Shale Pine Forest remains an ACEC, but loses its status as an RNA with absolutely no discussion. Likewise, the ACEC becomes open to mineral materials and non-energy mineral leasing with no discussion of how that leasing will specifically impact the unique soil and flora qualities for which this area is retained as an ACEC.

Issue Excerpt Text: While the agency retains an ACEC in the Square Butte landscape in Alternative C2, that proposed unit is a scant 900 acres, compared to the 1,900 existing ACEC that overlaps with the WSA. Pgs. 4-185 - 4-187. There is no discussion as to how this reduction in size benefits the resources or comports with the agency's duty to protect ACEC values. Conservation Groups struggle to offer any analysis on the agency's proposed action here because there is absolutely no discussion from the agency. Failure to take a hard look at the direct, indirect, and cumulative effects of this drastic management change is an arbitrary and capricious agency action.

Issue Excerpt Text: Specifically, the SRMA management and elimination of ACEC status for Collar Gulch offers no analysis of protection for critical aquatic resources and sensitive aquatic species.

Issue Excerpt Text: The agency fails to adequately explain the impacts eliminating ACEC management will have on Judith Scenic and Collar Gulch, and how the agency plans to protect those prioritized resources under its proposed SRMA. Again, the agency offers only assertions that amount to an arbitrary and capricious agency action.

Issue Excerpt Text: The changes in management from Alternative A, the status quo, and Alternative C2, which the agency concedes will put Acid Shale Pine Forests important resources at risk, and without discussion as to why the changes are necessary to fulfil the agency's statutory duty to this ACEC and the identified relevant resources to which the agency has a statutory duty to protect, is arbitrary and capricious.

Issue Excerpt Text: These two ACECs in the Judith Mountains are proposed to be eliminated under Alternative C2. Instead, Alternative C2 proposes to manage the range entirely as a Special Recreation Management Area (SRMA), with no layered or site-specific management for the resources of Judith Scenic and Collar Gulch, where the emphasized use of the entire mountain range would be recreation, access, and built facilities like staging areas and parking lots to facilitate increased access and use of the area.

Issue Excerpt Text: On Pg. 4-160, the BLM asserts: "The management of ACECs under all alternatives would protect relevant and important resource values." This is blatantly factually incorrect. The agency itself admits that losing or degrading protections for ACECs will result in damage to the relevant and important resource values. This FEIS contradicts itself, a clear demonstration of inadequate analysis and discussion.

Issue Excerpt Text: SRMAs are not equivalent to nor interchangeable with ACECs. The emphasis of SMRAs is specifically to provide recreational access and facilities, whereas ACECs is specifically to protect unique resources. Recreation and protection are not inherently at odds or incompatible, but the management proposals for the Judith Mountains SRMA that increase access and pressure and eliminate protections to the scenic area and the water resources that these two ACECs were designated for.

Issue Excerpt Text: *Alternative C2 proposes to eliminate ACEC and ONA management protections for the Blind Horse, Chute Mountain, Deep Creek/Battle Creek, and Ear Mountain units. Alternative C2 asserts these units "will be managed as Conservation Management Areas, which are congressional designations and have protection under the Rocky Mountain Front Heritage Act." It is unclear exactly what the agency is trying to do here. These ACECs are included in the congressionally designated Conservation Management Area (CMA) that was established by the Act. The agency cannot establish, by administrative action, a statutory status. This statement implies that the management prescriptions for areas managed by statutory decree are inherently stronger or more robust than any management an agency could choose to provide or is obligated to provide. However, the agency fails at any point in the FEIS to directly analyze and discuss the resources and management needs.*

Issue Excerpt Text: *The agency has a statutory duty under FLMPA to identify and designate ACECs, and a duty to prioritize the protection of the resources for which ACECs are designated. There is no discussion or analysis for how the BLM intends to prioritize the protection of the important resources for which the various ACECs proposed to be eliminated under Alternative C2.*

Issue Excerpt Text: *Furthermore, these units were designated within the CMA because of the wilderness characteristics and outstanding scenic values that qualified them as ACECs/ONAs in the first place. The CMA designation was made for these areas in the Rocky Mountain Front Heritage Act not as a replacement for ACEC and ONA administrative designations, but as a compliment to them... The BLM concedes that CMA status is complementary to ACEC management, but does not entirely displace the need for ACEC management, and that CMA management alone is not enough to protect the values of these landscapes. Concluding, without adequate analysis, that impacts of allowed disturbing activities are "unlikely" "due to the area's rugged topography is inadequate. To remove the agency's complimentary ACEC designation to these landscapes, without a full discussion of exactly how the important and unique resources in these units will be preserved and protected, or how they will be impacted, is arbitrary and capricious.*

Enk, Micheal/ Kerr, Rick

Issue Excerpt Text: *I am protesting the BLMs failure to provide meaningful substantive explanations for removing designated Areas of Critical Environmental Concern in the planning area.*

Issue Excerpt Text: *The BLM is a multiple use agency and under the Federal Land Management Policy Act, managing for multiple uses means managing resources so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources . . . [and] the use of some land for less than all of the resources with consideration being given to the relative value of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit of output... Under the proposed alternative C2, the BLM is proposing to manage zero acres for wilderness characteristics. In addition, the plan eliminates two Areas of Critical Environmental Concern and fails to manage even one out of the 27 eligible stream segments, as suitable for inclusion in the National Wild and Scenic Rivers System. The plan is heavily skewed in favor of allowing any potential energy development that may arise in the future.*

Good, Mark

Issue Excerpt Text: *The BLM has not provided a rationale for eliminating the two ACECs in the Judith Mountains. While the plan does provide setbacks for cutthroat trout and for the creation of a management plan for the Tate-Potter Cave, the Special Recreation Management Area provides no protection for these values or any other. According to the EIS, major threats to this EIS are ROW development, vegetation treatments, invasive weeds, OHV travel, recreation, and fire suppression activities. No protection is provided to the popular non-motorized Collar Peak Trail and the area is open to all forms of mineral development. Even VRM classification was downgraded from Class II to Class III.*

Hornbein, Melissa (Western Environmental Law Center, Montana Environmental Information Center, WildEarth Guardians)

Issue Excerpt Text: BLM gives no analysis in connection with the required FLPMA standards as to why only two ACECs are carried forward in its Preferred Alternative. Where a management decision about the designation of ACECs "[gives] no analysis in connection with the required FLMPA standards" but rather "appears to be based on political concerns," that decision is arbitrary and capricious. Accordingly, BLM's management of ACECs is unlawful. See *S. Utah Wilderness All. v. Burke*, 981 F. Supp. 2d at 1114.

Issue Excerpt Text: There is no justification from the reduction from the status quo. Under the other alternatives, either 8 or 10 of these ACECs would be carried forward. The Preferred Alternative's decision to designate only two ACECs does not meet the goal articulated in the RMP: to "[m]anage ACECs to protect significant resource values and prevent damage to important natural, biological, cultural, recreational, or scenic resources and values, or to protect life and safety from natural hazards." RMP at 2-51. It represents a small percentage of the currently managed ACEC's that would be retained under other alternatives (approximately 15%), and neither the RMP nor the EIS contains adequate justification for the reduction.

Mari, David

Issue Excerpt Text: BLM has given no reasons as to why they would eliminate the current ACEC designations for both Collar Gulch and the Judith Mountains; It Is Just presented as a fait accompli without any stated rationale other than an apparent desire to open almost the entire planning area to commercial development without regard for the resources that are present. There also is no explanation why the areas should not continue to be managed as ACECs.

Issue Excerpt Text: As stated in the EIS, a major threat to this ACEC is degradation of water quality due to surface disturbances on the geologic formations in the Collar and Chicago Gulch watersheds and its resultant impact on westslope cutthroat trout. According to the EIS, the area would be open or available to such surface disturbing activities as commercial timber harvest, energy and mineral leasing and development, and ROW location. Given the steep topography of the area, these types of activities would cause soil erosion and impair water quality and very possibly destroy the habitat for westslope cutthroat trout in the area. The current commitment of BLM to the Collar Gulch ACEC is demonstrated in a 2007 Memorandum of Understanding and Conservation Agreement (MOU/CA) for Westslope Cutthroat Trout and Yellowstone Cutthroat Trout in Montana. As a signatory to the document, former State Director Gene Terland expressed the BLM's intention to adopt the Goals and Objectives of the MOU/CA. Quote: "By signing this Agreement, the signatories accept the goals and objectives contained herein, will incorporate them into their respective planning and budgeting processes, and will strive to accomplish the goals and objectives as defined by the criteria below." Opening this area to commercial development is totally counterproductive to meeting those goals and objectives.

Otto, Chuck (Anaconda Sportsmen's Club)

Issue Excerpt Text: We protest the ACEC decisions and refer BLM to FLPMA Title II Section 202 (c) (3) which requires BLM to give "priority to the designation and protection of areas of critical environmental concern." In addition, BLM's planning regs at 43CFR 1610.7-2(a) use relevance and importance as the criteria used to identify ACEC's. BLM references the January 2015 report on ACEC's in the document. Thus, Congress has constrained BLM's discretion in this matter and BLM must give "priority" to designating areas that meet relevance and importance. Anaconda Sportsmen protest the elimination or reduction of existing ACEC's and the non-designation of new ACEC's listed on pages 2-51 and 2-52.

Hanley, Jerry

Issue Text Excerpt: The BLM repeatedly failed to properly identify, review, evaluate, and reach a best information-based conclusion with respect to the 1,618-acre CG ACEC which the LPRMP erroneously asserts is 1,500-acres.

Whirry, Gordon (Montana Wilderness Association)

Issue Excerpt Text: *All but 2 of the ACEC's have been removed with no legitimate justification.*

Summary:

The BLM violated the Federal Land Policy and Management Act of 1976 (FLPMA) by failing to give priority to the designation and protection of areas of critical environmental concern (ACECs). Additionally, BLM management actions are inadequate to protect relevant and important values, and the BLM failed to 1) adequately analyze the impacts of removing special designations, 2) provide a rationale for not designating these areas, 3) justify its decision to un-designate existing ACECs, and 4) abide by the recommendations in the ACEC report prepared by BLM staff.

The BLM is mandated to protect significant cave resources, and to acknowledge that the removal of ACEC status from Collar Gulch may result in damage to caves.

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.” 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, in the development and revision of land use plans, the BLM give priority to the designation and protection of ACECs. 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.

In accordance with BLM Manual 1613, Areas of Critical Environmental Concern (1988), 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/undesigned. Appendix T contains the results of the interdisciplinary team’s evaluation of relevance and importance for each potential ACEC. The evaluation contains a list of areas recommended for analysis. Each of those potential ACECs was fully analyzed within the range of alternatives in accordance with BLM Manual 1613.

The BLM implements FLPMA’s instruction to give priority to the designation and protection of ACECs by following its procedures for the identification, evaluation and designation of ACECs during the planning process as outlined in 43 CFR 1610.7-2 and BLM Manual 1613. In accordance with those procedures, 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 into the PRMP for designation as an ACEC (see BLM Manual 1613.33.E). A comparison of estimated effects and trade-offs associated with the alternatives led to development and selection of the Proposed Plan (see Lewistown PRMP/FEIS, pp. 4-176 to 4-183). For example, the Lewistown PRMP/FEIS acknowledges impacts on ACEC values from activities such as mineral entry, mineral materials disposal, off-highway vehicle travel, and rights-of-way (ROWs); however, the FEIS also compares these effects with other protective measures, such as fluid mineral stipulations and required design features (RDFs), which will minimize surface disturbances, thereby reducing impacts on these values regardless of whether the area is designated as an ACEC. Additional analysis is described for each management action associated with ACECs by alternative in Appendix U.6 of the PRMP/FEIS. Although the Collar Gulch (CG) ACEC is not proposed for designation in the Proposed RMP, the BLM evaluated the relevance and importance criteria for the CG ACEC in Appendix T, page 13, compared the estimated effects and tradeoffs associated with designation

of this ACEC (PRMP/FEIS, pp. 4-176 to 4-183) and a rationale will be provided in the ROD for those ACECs designated in the Approved RMP. Table 2, pp. 2-51 provides a comparison of the acreage for ACECs proposed for designation across alternatives.

The BLM determined that management actions, as applied under the proposed Alternative C2, are adequate to protect the relevant and important values of those potential ACECs that were not carried forward for designation. For example, during the planning process, Montana Fish, Wildlife and Parks identified additional westslope cutthroat trout (WSCT) fisheries outside Collar Gulch that warrant management attention. As a result, the Lewistown Proposed Plan was modified from the draft EIS/draft RMP to include a RDF when authorizing surface-disturbing activities within 0.5 miles from centerline of any stream containing known populations of 90–100 percent genetically pure WSCT. This would provide protections for WSCT in Collar Gulch, as well as Alpine Gulch, and extend to future restoration sites and populations outside the Judith Mountains.

Management actions for conservation management areas are consistent with the existing outstanding natural area designations and proposed ACECs (Alternatives B and D). See Appendix U (p. U-40) for a complete list of those management actions. Similarly, management actions for Square Butte and Acid Pine Shale Forest are similar to existing management with some modifications and refinements for clarification and to address management of relevant and important values. Appendix Q (Sections Q.2 and Q.3) includes management actions for the Judith SRMA, which contains Collar Gulch and the Judith Peak Scenic Area.

Additional stipulations and RDFs that protect relevant and important features of ACECs (such as conservation measures for riparian areas, WSCT, and bat hibernaculum) are contained in Appendix L and Appendix F of the PRMP/FEIS.

All alternatives described in the FEIS, including the Proposed Plan, maintain the goals and objectives of the memorandum of understanding/conservation agreement (July 2007), which states: “1) Ensure the long-term, self-sustaining persistence of each subspecies distributed across their historical ranges; 2) maintain the genetic integrity and diversity of non-introgressed populations; 3) protect the ecological, recreational, and economic values associated with each subspecies.”

The Lewistown PRMP/FEIS contains goals, objectives, and management actions to manage all cave resources as mandated by the Federal Cave Resources Protection Act of 1988. Cave and karst resources would be managed, regardless of ACEC status, to protect significant cave resources for scientific research, educational study, and recreational experiences that are compatible and consistent with protection of resources associated with caves and karst landforms. Site-specific management of cave and karst resources will be addressed through subsequent cave management plans, as specified on page 2-31 of the Lewistown PRMP/FEIS. The stated goal of the Lewistown PRMP is: “Manage all cave resources as mandated by Federal Cave Resource Protection Act of 1988 (FCPRA) to protect unique, nonrenewable, and fragile biological, geological, hydrological, cultural, paleontological, scientific and recreational values for present and future users” (p. 2-31).

The BLM complied with FLPMA by considering the designation and protection of ACECs during land use planning. Additionally, BLM management actions are adequate to protect resource values, and the BLM analyzed the impacts of removing special designations (pp. 4-176 to 4-189). The record of decision provides rationale for selection of the Approved RMP. Although these protest issues are denied, the Approved Plan for the Judith SRMA is modified in the record of decision to include a requirement that future management activities be designed to emphasize the protection and enhancement of relevant and important values, such as wildlife habitat, fisheries, and cave and karst resources, and emphasize nonmotorized and mechanized travel in watersheds containing populations of WSCT in the Judith Mountains SRMA.

BASELINE INFORMATION

Bertram, Aubrey (Montana Wilderness Association)

Issue Excerpt Text: A protest on these RMPs, though, has prevented oil and gas leases being issued in key wildlife habitat, resulting in most of the planning area and specifically these identified LWC units from seeing any oil and gas leasing, exploration, or development over the last several decades. The field office did not actively manage for wilderness character under the existing RMPs, but the effect of the protest prevented activities that could adversely affect those qualities. This protest, however, will end with the RMP revision and not be carried forward. Because it is an administrative protest and not part of the RMP, any analysis by the BLM that rests on the No Action Alternative A's protection of wilderness character is faulty.

Leroux, Jocelyn (Western Watersheds Project)

Issue Excerpt Text: BLM failed to establish an accurate environmental baseline in regard to the current state of soil, water, and vegetation resources in the plan area. Without this baseline data the public is unable to assess the full extent of impacts outlined in the PRMP/FEIS. First, BLM clearly states in Appendix W that "soil condition inventories were not completed" (W-28), "water condition inventories were not completed specifically for this analysis, but existing data from multiple sources are included. Although this is believed to be the best available data, there is still inherent uncertainty in some of the estimates, and there may be data gaps" (W-34), and "vegetation composition inventories were not completed" (W-41).

This clearly shows that BLM does not have an adequate baseline and thus cannot effectively evaluate the proposed impacts to these resources within the plan area. As WWP said in our comments "if the BLM cannot already effectively manage the lands currently authorized for grazing, it certainly has no business expanding the program" (p. 17). Because BLM does not have accurate baseline data, it is necessary as WWP previously commented, for BLM to "analyze a monitoring plan for grazing allotments in the planning area" and "propose a monitoring schedule that will be adhered to" (p.20).

Summary:

The BLM failed to establish an accurate environmental baseline in regard to the current state of resources in the Planning Area. The No Action Alternative failed to include the environmental effects of a November 1988 protest of the issuance of oil and gas leases by the BLM in Montana that has effectively deferred leasing since that time in the Lewistown Planning Area.

Response:

The CEQ's regulations implementing NEPA effective at the time the EIS was prepared require that agencies use "high-quality information" (40 CFR 1500.1(b)). These regulations require the BLM to "insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements" (40 CFR 1502.24).

A land use planning-level decision is broad in scope. For this reason, the analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provide the necessary basis to make informed land use plan-level decisions. NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that 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 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.

The BLM consulted with, and collected and incorporated data from, other agencies and sources, including but not limited to the US Fish and Wildlife Service (USFWS) and Montana Fish, Wildlife and Parks, and relied on numerous data sources and scientific literature to support its description of baseline conditions (PRMP/FEIS, Chapter 3; AMS 2019) and impact analysis (PRMP/FEIS, Chapter 4). A list of information and literature used is contained in the references section found in Volume I beginning on page 4-233 of the PRMP/FEIS.

As a result of these actions, the BLM gathered the necessary data essential to make a reasoned choice among the alternatives analyzed in detail in the PRMP/FEIS, and provided an adequate analysis that led to an adequate disclosure of the potential environmental consequences of the alternatives (PRMP/FEIS, Chapter 4). As a result, the BLM has taken a “hard look,” as required by NEPA, at the environmental consequences of the alternatives in the PRMP/FEIS to enable the decision-maker to make an informed decision. Finally, the BLM has made a reasonable effort to collect and analyze all available data.

The existing protest resolution decision (November 1988) affecting federal mineral estate in the LFO (whereby leasing parcels that require a special stipulation to protect important wildlife values is deferred) is included in the baseline information and described in Alternative A (No Action Alternative; Volume I, pp. ES-3 and 2-2 of the PRMP/FEIS). Effects of this protest resolution are included in the evaluation of impacts for each alternative compared with the No Action Alternative.

The BLM established an accurate environmental baseline in regard to the current state of resources in the Planning Area and included the existing protest resolution that defers oil and gas leasing as part of the baseline information used to compare the effects of each alternative. Accordingly, this protest is denied.

BEST AVAILABLE SCIENCE

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *The BLM fails to consider the best available science and the opinions and recommendations of other independent experts in the design of Objectives and other RMP direction (Chapter 2), formulation of alternatives (Id.) and disclosure of impacts (Chapters 3 and 4), in violation of NEPA. We cited scientific information indicating climate change will be exacerbated by the management actions sanctioned by the RMP. We explained that the draft EIS failed to disclose, consider, and fully discuss the published scientific papers discussing climate change in proper contexts.*

Hauser, Calvin

Issue Text Excerpt: *Twenty five years after the 1994 JVP RMP, the BLM, MT DEQ, and Montana Universities have performed environmental (scientific) research with summaries (see Calvin Hauser’s comment period comments listing professional reports and summaries) confirms the Lewistown District and State Directors LPRMP proposed decisions, that the best 2020 LPRMP (plan) for the Collar Gulch Tributary is the Alternative C1 (Preferred) and second the Alternative C2 (Proposed), all-the-while maintaining and keeping the BLM’s multiple-use mission.*

Hanley, Jerry

Issue Text Excerpt: *The BLM repeatedly failed to properly identify, review, evaluate, and reach a best information-based conclusion with respect to the 1,618-acre CG ACEC which the LPRMP erroneously asserts is 1,500-acres. The regulations implementing NEPA state that information must be “high quality” and use “accurate scientific analysis.” 40 C.F.R. §1500.1(b).*

Issue Text Excerpt: *...I, adjoining property owners, and the public are adversely affected because BLM does not know the interfacing boundary to avoid trespass; encroachment; the boundaries of fish habitat; and, locations of restrictions of surface and groundwater withdrawal and ROW boundaries*

Issue Excerpt Text: *The BLM failed to properly identify, review, evaluate, and reach a best information based conclusion as to the limitations on the BLM imposed withdrawal of water based on a volume of 3 cubic feet and at exactly what location.*

Issue Excerpt Text: *BLM repeatedly failed to properly identify, review, evaluate, and reach a scientifically based conclusion both in the original assertion and its recent errata corrected assertion. If BLM had done so it would have become evident and thus determined that any surface disturbances resulting from human activity would be regulated under existing state and federal environmental regulations/laws including stringent non-degradation policies and thus eliminate or mitigate threats and most certainly, “the major threat.”.... BLM has completely failed to meet such requirements by asserting, “The major threat to this ACEC is degradation of water quality due to surface disturbances in the Collar Gulch and Chicago Gulch watershed.”*

Leroux, Jocelyn (Western Watersheds Project)

Issue Text Excerpt: *The best available science is clear as detailed in WWP's scoping comments: livestock grazing exacerbates the negative impacts of climate change on soils, vegetation, water quality, water temperature, stream function and thus the host of associated aquatic and terrestrial wildlife species. For BLM to ignore these impacts by expanding livestock grazing is directly opposing issue number one which prompted the need for this RMP revision:*

Summary:

The BLM failed to consider the best available science and the opinions and recommendations of other independent experts during the formulation of the PRMP/FEIS specific to the following topics:

- Analyzing impacts on soils, vegetation, water quality, and other resource values from grazing
- Using correct acreages for the analysis and properly identifying property boundaries
- Considering actions to limit water withdrawals based on a volume of 3 cubic feet in Collar Gulch
- Reaching a scientific-based conclusion regarding threats to Collar Gulch

Response:

CEQ regulations implementing NEPA require that agencies use “high-quality information” (40 CFR 1500.1(b)). NEPA regulations require the BLM to “insure 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 Lewistown PRMP/FEIS includes a bibliography (see the references section in Volume I of the PRMP/FEIS), which lists information considered by the BLM in preparation of the Lewistown PRMP/FEIS. The BLM reviewed existing literature and considered literature submitted during the comment period for the Lewistown Draft RMP/Draft EIS, and determined there was no new additional information that would result in changes to management direction related to actions described above in the Lewistown PRMP/FEIS. The BLM relied on high-quality information, professional knowledge, and the best available data in preparation of the Lewistown PRMP/FEIS.

The BLM consulted with, and collected and incorporated data from, interdisciplinary staff and other agencies and sources, including but not limited to the USFWS and Montana Fish, Wildlife and Parks, and

relied on numerous data sources and scientific literature to support its description of baseline conditions (PRMP/FEIS, Chapter 3; AMS 2019) and impact analysis (PRMP/FEIS, Chapter 4). A list of information and literature used is contained in the references section found in Volume I beginning on page 4-233 of the PRMP/FEIS.

Data from geographic information systems were used in developing acreage calculations and for generating many of the figures. Most calculations in this RMP are rounded, including those for Collar Gulch. Given the scale of the analysis, the compatibility constraints between datasets, and the lack of data for some resources, all calculations are approximate and were used to serve for comparison and analytic purposes only. Cadastral surveys are not practical to determine property boundaries at the land use planning scale.

Environmental consequences described in Chapter 4 and errata specific to Collar Gulch were based on scientific literature, as well as professional knowledge of interdisciplinary staff and other agencies. In addition to the referenced *Applied Geochemistry* (2015) publication, the BLM also considered a number of other sources that describe threats to WSCT. For example, one additional source cited in the reference section (Bear et al. 2007) suggests WSCT are particularly susceptible to stream temperature increases associated with anthropogenic habitat disturbance (Lewistown PRMP, page R-10). Montana Fish, Wildlife and Parks and the Montana Natural Heritage Program currently list sedimentation and warming water temperatures due to poor grazing practices, logging, mining, agriculture, and residential development as one of four primary threats to WSCT.¹ The glossary (G-25) contains a definition of surface disturbance and surface-disturbing activities, which would include impacts from fire and other sources.

The BLM properly evaluated and appropriately reached a conclusion as to BLM-imposed limitations of water withdrawals in Collar Gulch. This action is considered as part of the No Action Alternative because it is an existing decision described verbatim from the Judith RMP (1994), page 31. The action is clearly defined on page U-34 in Alternative A. A range of alternative actions was developed and considered to best manage all relevant and important resource values within Collar Gulch, including withdrawal of water. Analysis of this management action is compared (pp. 4-182–184). The Lewistown PRMP does not contain this management action.

The Lewistown PRMP establishes continuation of the current stocking rates. Any allowances for increased stocking rates would be based on a site-specific analysis conducted at the allotment scale. It would include an analysis, where present, of the impacts of climate change on soils, vegetation, water quality, water temperature, and stream function and, thus, the host of associated aquatic and terrestrial wildlife species. An alternative to reduce the stocking rate across the Planning Area was also considered in Alternative B. The Lewistown PRMP does not increase acreage available to grazing.

As a result of these actions, the BLM gathered the necessary data essential to make a reasoned choice among the alternatives analyzed in detail in the PRMP/FEIS, and provided a sufficient analysis that led to an adequate disclosure of the potential environmental consequences of the alternatives (PRMP/FEIS, Chapter 4). Consequently, the BLM has taken a “hard look,” as required by NEPA, at the environmental consequences of the alternatives in the PRMP/FEIS to enable the decision-maker to make an informed decision. Finally, the BLM has made a reasonable effort to collect and analyze all available data at the appropriate scale required for a land use planning effort.

The BLM considered and appropriately applied the best available science and the opinions and recommendations of internal and other independent experts during the formulation of the PRMP/FEIS. Accordingly, this protest is denied.

ENDANGERED SPECIES ACT

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: The RMP approves of management actions which adversely affect species listed or proposed for listing under the Endangered Species Act (ESA) in violation of that Act-and without undertaking consultation with the U.S. Fish and Wildlife Service as required under the ESA. Violation of that Act-and without undertaking consultation with the U.S. Fish and Wildlife Service as required under the ESA.

¹ Westslope Cutthroat Trout, Montana Field Guide. Montana Natural Heritage Program and Montana Fish, Wildlife and Parks. April 29, 2020. Online: <http://FieldGuide.mt.gov/speciesDetail.aspx?elcode=AFCHA02088>.

Summary:

The BLM failed to adequately complete consultation under the ESA for the Lewistown PRMP/FEIS.

Response:

Section 7(a)(2) of the ESA requires federal agencies to ensure that their proposed actions will not be “likely to jeopardize the continued existence of any [listed] species or result in the destruction or adverse modification of the critical habitat of such species” (16 United States Code 1336(a)(2)).

In determining whether a proposed action “may affect” a listed species, or, conversely, whether there will be “no effect,” a federal agency must determine what activities are encompassed by its proposed action, what the effects of those activities are likely to be on the environment, and whether those effects will “pose any effect” on a listed species or critical habitat. Only those proposed actions that “may affect” a listed species or critical habitat are subject to the ESA’s Section 7 consultation requirements.

Consistent with Section 7 of the ESA, when an action agency determines that a federal action will have no effect on listed species or critical habitat, the agency will make a “no effect” determination. In that case, the ESA regulations do not require concurrence from the USFWS, and the agency’s obligations under Section 7 are complete. On May 20, 2020, the USFWS acknowledged the BLM’s “no-effect” determination for Canada lynx critical habitat based on the analysis contained in the biological assessment.

The Lewistown PRMP/FEIS includes a description of the BLM’s compliance with Section 7 of the ESA in Section I.5.4, USFWS Consultation. The BLM conducted informal consultation with the USFWS under Section 7(a)(2) of the ESA throughout the planning process. On May 20, 2020, the BLM received concurrence from the USFWS that the Lewistown PRMP *may affect but is not likely to adversely affect* the threatened grizzly bear, threatened Canada lynx, threatened piping plover, and endangered pallid sturgeon. The concurrence concluded informal consultation pursuant to the regulations implementing Section 7(a)(2) of the ESA (50 CFR 402.13).

Additionally, land use planning-level decisions are broad in scope and do not result in on-the-ground actions, such as approving an application to drill or plan of operations. Consequently, future environmental analysis and Section 7 consultation for such projects will occur on a project-by-project basis.

The BLM developed the Lewistown Proposed RMP and FEIS in full compliance with the ESA. Accordingly, this protest is denied.

FISH, WILDLIFE, AND SPECIAL STATUS SPECIES

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *The FEIS fails to analyze and disclose the direct, indirect, and cumulative effects on wildlife, in violation of NEPA. The RMP fails to sufficiently prioritize protection of habitat to maintain viable populations of wildlife species, ignores important biological science on species and ecological relationships in violation of NEPA, fails to recognize and protect the unique values of old-growth forests, and does not present the balanced approach FLPMA requires for consideration of the ecological and social values of wildlife.*

Bertram, Aubrey (Montana Wilderness Association)

Issue Text Excerpt: *The Agency Fails To Protect Sage Grouse Habitat from Undue Degradation by Allowing Future Oil and Gas Leasing in Priority and General Habitat. In order to meet NEPA's scientific integrity standards, the requirements of BLM's Sensitive Species policy, and address the "inadequacy of regulatory mechanisms identified by the USFWS in their 2010 listing rule for the greater sage grouse, federal agencies need to adopt in its plan amendments and revisions conservation measures that are biologically effective according to the best available science. Adopting conservation standards that are inconsistent with the recommendations of the agencies' own experts will reveal the final decision to be arbitrary and capricious and an abuse of discretion.*

Issue Text Excerpt: *Overall, BLM must prioritize leasing outside of sage-grouse habitat, as required by the 2015 sage grouse plans. Under the 2015 Rocky Mountain ROD, BLM must: prioritize oil and gas leasing and development outside of identified Priority Habitat Management Areas (PHMA) and General Habitat Management Areas (GHMAs). This is to further limit future surface disturbance and encourage new development in areas that would not conflict with GRSG. This objective is intended to guide development to lower conflict areas and as such protect important habitat and reduce the time and cost associated with oil and gas leasing development by avoiding sensitive areas, reducing the complexity of environmental review and analysis of potential impacts on sensitive species, and decreasing the need for compensatory mitigation.*

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Excerpt Text: *NEPA requires analysis of the impacts of past, ongoing, and foreseeable management actions on land of all ownerships in a scientifically-based cumulative effects analysis area. The FEIS (Chapters 3 and 4) does not analyze or disclose cumulative impacts on the grizzly bear in violation of NEPA.*

Issue Excerpt Text: *The FEIS (Chapters 3 and 4) fails to consider best available science concerning the pileated woodpecker and other cavity nesting/denning species, in violation of FLPMA and NEPA.*

Issue Excerpt Text: *The FEIS (Chapters 3 and 4) fails to consider best available science concerning elk, in violation of FLPMA and NEPA. NEPA requires analysis of the impacts of past, ongoing, and foreseeable management actions on land of all ownerships in a scientifically-based cumulative effects analysis area. The FEIS (Chapters 3 and 4) does not sufficiently analyze or disclose cumulative impacts on the elk, in violation of NEPA.*

Issue Excerpt Text: *NEPA requires analysis of the impacts of past, ongoing, and foreseeable management actions on land of all ownerships in a scientifically-based cumulative effects analysis area. The FEIS (Chapters 3 and 4) does not analyze or disclose cumulative impacts on the black-backed woodpecker, in violation of NEPA.*

Issue Excerpt Text: *The FEIS fails to analyze and disclose the direct, indirect, and cumulative effects on aquatic and riparian dependent species in violation of NEPA. The RMP fails to sufficiently prioritize protection of habitat to maintain viable populations of aquatic and riparian dependent species, ignores important biological science on species and ecological relationships in violation of NEPA, and does not present the balanced approach FLPMA requires for consideration of the ecological and social values of aquatic and riparian dependent species. In addition, the RMP approves of actions adversely affecting bull trout—a species listed the Endangered Species Act (ESA) in violation of that Act—and without undertaking consultation with the U.S. Fish and Wildlife Service as required under the ESA.*

Issue Excerpt Text: NEPA requires analysis of the impacts on wildlife of past, ongoing, and foreseeable management actions on land of all ownerships in a scientifically-based cumulative effects analysis area. The FEIS (Chapters 3 and 4) does not analyze or disclose such cumulative impacts. Schultz (2010) concludes that "the lack of management thresholds allows small portions of habitat to be eliminated incrementally without any signal when the loss of habitat might constitute a significant cumulative impact." The RMP fails to recognize thresholds for population viability.

Issue Excerpt Text: The FEIS (Chapters 3 and 4) fails to consider best available science concerning the grizzly bear. The RMP (Chapter 2) does not provide sufficient direction to protect aspects of grizzly bear habitat to in order to maintain and restore population viability.

Issue Excerpt Text: The FEIS (Chapters 3 and 4) fails to consider best available science concerning wolverine. The RMP (Chapter 2) does not provide sufficient direction to protect aspects of wolverine habitat to in order to maintain and restore population viability. Since the FEIS/RMP is inconsistent with the best available science, it violates the ESA, FLPMA and NEPA.

Issue Excerpt Text: NEPA requires analysis of the impacts of past, ongoing, and foreseeable management actions on land of all ownerships in a scientifically-based cumulative effects analysis area. The FEIS (Chapters 3 and 4) does not analyze or disclose cumulative impacts on the fisher, in violation of NEPA.

Leroux, Jocelyn (Western Watersheds Project)

Issue Excerpt Text: BLM fails to adequately protect habitat for greater sage-grouse in the PRMP/FEIS. BLM should rely on best available science rather than an inadequate sage-grouse plan if they intend to avoid unnecessary and undue degradation. Greater sage-grouse are indicator species for the sagebrush ecosystems, and their declining numbers tell us that BLM has not been managing the plan area in a manner consistent with protecting and conserving natural resources, and thus a PRMP that increases impacts from livestock grazing and energy development is a violation under FLPMA.

Issue Text Excerpt: BLM failed to include any specific management objectives and actions for predators and carnivores in the plan area. However, as WWP pointed out in our comments "wolves are a native species that is still recovering in the LBLM planning area" (p. 22). These populations are expanding eastward and "wolves are often killed as a result of management actions and in some cases relating to depredation of livestock on public lands" (p. 22). Yet, BLM failed to include any mention of wolves. In addition, BLM fails to comprehensively address how grizzly bears will be managed when it comes to livestock grazing.

Summary:

The BLM fails:

- To protect greater sage-grouse (GRSG) habitat from undue degradation by allowing future oil and gas leasing in priority and general habitat, which is necessary in order to meet NEPA's scientific integrity standards, meet the requirements of the BLM's sensitive species policy, and address the inadequacy of regulatory mechanisms identified by the USFWS in its 2010 listing rule for the greater sage-grouse.
- To consider best available science concerning fish and wildlife species. The RMP (Chapter 2) does not provide sufficient direction to protect aspects of fish and wildlife habitat to maintain and restore population viability. Since the PRMP/FEIS is inconsistent with the best available science, it violates the ESA, FLPMA, and NEPA. NEPA requires analysis of the impacts of past, ongoing, and foreseeable management actions on land of all ownerships in a scientifically based cumulative effects analysis area.
- To analyze or disclose cumulative impacts on fish and wildlife habitat, including the Grizzly Bear, pileated woodpecker, northern goshawk, pine marten, Canada lynx, and wolverine, in violation of

NEPA.

Response:*Protection of Greater Sage-Grouse Habitat:*

The BLM is protecting GRSG habitat from undue degradation by carrying forward conservation measures to address the inadequacy of regulatory mechanisms identified by the USFWS in its 2010 listing rule for the GRSG and is considering best available science concerning fish and wildlife species.

A primary objective of the BLM's special status species policy is to initiate proactive conservation measures that reduce or eliminate threats to BLM sensitive species and minimize the likelihood of and the need for listing of the species under the ESA (Manual 6840.02.B). Manual 6840 directs the BLM to "address Bureau sensitive species and their habitats in land use plans and associated NEPA documents" when engaged in land use planning with the purpose of managing for the conservation (Manual 6840.2.B).

This policy, however, acknowledges that the implementation of such management must be accomplished in compliance with existing laws, including the BLM multiple-use mission, as specific in the FLPMA (Manual 6840.2).

Since fluid mineral development was not addressed in the 2015 GRSG Approved Plan Amendment for Lewistown, the Lewistown PRMP includes a no surface occupancy (NSO) stipulation for oil and gas leasing within PHMA and a NSO stipulation near leks in GHMA, and a controlled surface use stipulation for all areas outside of lek buffers in GHMA habitats. These further prevent unnecessary or undue degradation to habitats associated with GRSG. Stipulations in PHMA and GHMA further encourage lessees to acquire leases outside of GRSG PHMA due to fewer restrictions in those areas than in higher priority habitat management areas. In addition, the BLM will continue to work with parties who file expressions of interest and potential lessees to voluntarily prioritize leasing in less-sensitive areas. Consistent with the GRSG plans, however, parcels may be leased within GRSG habitat management areas without first leasing parcels in non-habitat areas.

The BLM's Land Use Planning Handbook (Handbook 1601-1) also provides guidance for developing the management decisions for sensitive species that "result in a reasonable conservation strategy for these species," and "should be clear and sufficiently detailed to enhance habitat or prevent avoidable loss of habitat pending the development and implementation of implementation-level plans" (Handbook 1601-1, Appendix C, p. 4). The handbook indicates that management decisions "may include identifying stipulations or criteria that would be applied to implementation actions" (Handbook 1601-1, Appendix C, p. 4).

Best Available Science for Greater Sage-Grouse

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that 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 Lewiston RMP.

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.

CEQ regulations implementing NEPA require that agencies use "high-quality information" (40 CFR 1500.1(b)). NEPA regulations require the BLM to "insure the professional integrity, including scientific

integrity, of the discussions and analyses in environmental impact statements” (40 CFR 1502.24).

The Lewistown PRMP/FEIS incorporates relevant baseline information and studies about GRSG, including the National Technical team (NTT) report, and conservation measures to address GRSG and its habitat for all alternatives. A complete list of all past, present, and reasonably foreseeable management actions is included in Appendix W, Table W-2.

The BLM developed the Lewistown PRMP/FEIS applying the principles of “best available” data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012). Please see response in section heading *Best Available Science*.

Cumulative Impacts for Wildlife

The BLM must discuss the cumulative effects of the proposed action and the alternatives when preparing an EIS (BLM Handbook H-1790-1, Section 6.8.3). The CEQ regulations define cumulative effects as “. . . the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions” (40 CFR 1508.7).

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. The baseline data provide the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decisions or actions, the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. Appendix W: Analysis Assumptions and Cumulative Effects Scenario (Volume III of the PRMP/FEIS) provides a list of past, present, and reasonably foreseeable projects, plans, or actions that comprise the cumulative effects scenario. Projects and activities identified as having the greatest likelihood to generate potential cumulative effects on fish and wildlife species when added to RMP alternatives are displayed in Table W.2 (pp. W-9 to W-14 of the PRMP/FEIS). BLM evaluated the effects on Grizzly Bear and other special status species in Chapter 4, pp. 4-61 to 4-82. Grizzly Bear habitat would be managed in accordance with the 2018 Northern Continental Ecosystem (NCDE) Grizzly Bear Conservation Strategy (Appendix K).

The FEIS/RMP is consistent with the best available science and does not violate the ESA or FLPMA. The FEIS also complies with NEPA by analyzing the impacts of past, ongoing, and foreseeable management actions on lands of all ownerships in a scientifically based cumulative effects analysis area. Accordingly, this protest is denied.

GENERAL (INCLUDES FLPMA, NEPA, MONITORING AND ADAPTIVE MANAGEMENT, MULTIPLE USE, AND UNNECESSARY OR UNDUE DEGRADATION)

Bertram, Aubrey (Montana Wilderness Association)

Issue Text Excerpt: The FEIS violates FLPMA because it fails to prevent unnecessary or undue degradation of the PHMA and GHMA lands being offered for lease. One of the key requirements of the 2015 Sage-grouse Plans was that the BLM “when authorizing third-party actions that result in GRSG habitat loss and degradation, the SLM will require and ensure mitigation that provides a net conservation gain... to the species.” The FEIS states that under Alternatives C1 and C2, “PHMA would be open to new mineral material sales for both free and commercial use...effects could result in greater level of sage-grouse avoidance and disturbance, and habitat fragmentation or removal than the other alternatives.” ...The Plan expressly required such mitigation when oil and gas development is authorized in PHMA and GHMA, and the FEIS, contrary to established law, fails to

adequately protect PHMA and GHMA.

Enk, Micheal/Kerr, Rick

Issue Text Excerpt: *In accordance with this multiple use management mandate, it is the statutory duty of BLM to prepare a management plan that provides and maintains opportunities for a variety of uses. The BLMs mandate to manage our public lands for multiple use and sustained yield requires consideration of a host of natural and cultural resources. This means that while some areas may be set aside for oil and gas development and associated infrastructure, other areas must be managed for other resources, including wilderness characteristics. Under the proposed alternative C2, the BLM is proposing to manage zero acres for wilderness characteristics.*

Issue Text Excerpt: *The plan is heavily skewed in favor of allowing any potential energy development that may arise in the future. ..By any reasonable measure, Alternative C2 cannot be construed as a balanced management plan because it gives energy development priority over all other uses. While most leases in low-potential areas are not likely to be developed, their presence impedes meaningful conservation of other important resources. Whether areas are leased in the hope that energy prices will rise, or developers believe new ways to extract marginal energy will be found, or because they want to make their portfolios appear more valuable, speculative leasing skews multiple use management.*

Issue Text Excerpt: *The Lewistown RMP needs to be modified to restore some semblance of balance to its proposed management direction. That requires that a significant portion of the over 200,000 wilderness-quality acres be managed for their wilderness characteristics. This decision to manage zero acres in the planning area for their wilderness characteristics was made in the context of a landscape that has no designated Wilderness areas on any BLM lands in central and eastern Montana. The BLM failed its multiple use mandate by not proposing to manage any of the 200,000 acres identified as Lands with Wilderness Characteristics for those wilderness values. Instead, the BLM opened over 90 percent of the planning area and all the lands identified as having wilderness characteristics to energy development and associated infrastructure. In doing so, it precludes for all practical purposes, managing these lands for their wilderness characteristics with the option of applying designations to protect those characteristics.*

Leroux, Jocelyn (Western Watersheds Project)

Issue Excerpt Text: *The RMP does not explain how it complies with provisions of FLPMA or its implementing regulations. The Objectives, Goals, Management Actions and other RMP components are not well-defined, do not properly restrain ecologically damaging management, and do not provide accountability mechanisms for managers-violating NEPA and FLPMA.*

Issue Excerpt Text: *The RMP fails to include a monitoring program, in violation of FLPMA.*

Issue Excerpt Text: *FLPMA Requires the BLM Take Any Action Necessary to Prevent Unnecessary or Undue Degradation The FLPMA declares that "public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use." 43 U.S.C. §1701(a)(8). The FLPMA further mandates that the Secretary of Interior shall take any action necessary to prevent "unnecessary or undue degradation" of public lands. 43 U.S.C. § 1732(b).1....The FLPMA definition of "multiple use" calls for "harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output." See 43 U.S.C. § 1702(c)(emphasis added). If a particular use is incompatible with the productivity of the land and quality of the environment, the BLM is required to exclude such use. This prohibition on permanent impairment of the environment in FLPMA's definition of multiple-use is unique and purposeful... BLM has not taken the necessary steps to avoid unnecessary and undue*

degradation as is outlined by resource below. BLM fails to comply with FLPMA in reducing unnecessary and undue degradation for all resources.

Jennings, Charles

Issue Text Excerpt: *I am protesting BLM's failure to comply with it's Multiple Use mandate. In contrast to the Lewistown Administrative Draft RMP - Alternative D (preferred) which allowed oil and gas leasing on some lands while proposing that over 100,00 acres of these lands be protected to preserve wilderness characteristic, this new plan runs roughshod over the original plan which was developed with regional public comment and local expertise within this region. Please reconsider this top down plan and return to the original draft RMP, alternative D, which complies with your Multiple Use Mandate.*

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *The BLM Failed to Provide a "Hard Look" at the Actions for the LFO and BFO Plan Area* The fundamental purpose of NEPA is to ensure that federal actions receive appropriately detailed environmental review. 42 U.S.C. § 4332. Here, the BLM did not provide a hard look at the impacts of the proposed action on the various natural and cultural resources in the plan area, even where public comments during the planning process revealed the agency's failure. In the PRMP/FEIS, significant issues were not disclosed, conclusions about rangeland health are unsupported, and, to a large degree, the current and site- specific conditions of the ecosystems and species in the plan area are not available. The FEIS did not adequately consider and discuss all relevant information or respond to opposing scientific viewpoints.

Issue Text Excerpt: *However the RMP/FEIS fails to describe any monitoring activities. This violates planning regulations at 43 CFR §?1610.4-9 In failing to provide any details of what exactly is to be monitored, or how it is to be monitored, the RMP violates FLPMA.*

Issue Text Excerpt: *The FEIS fails to analyze and disclose the direct, indirect, and cumulative effects of management actions on soil productivity and integrity, in violation of NEPA. The RMP does not present the balanced approach FLPMA requires for consideration of protecting soils.*

Kotysinski, Tom

Issue Text Excerpt: *My concern is that the plan does not adequately recognize wilderness values, as was the case in the draft plan. It appears as though the plan opens nearly all lands to resource development. I would object to that. The law requires BLM exercise multiple use in its management and I don't see where wildlands, roadless areas and wilderness values are adequately addressed.*

Steinmuller, Patti

Issue Text Excerpt: *Omission of Wilderness Characteristics. Additionally, although wilderness is a multiple use, no areas with wilderness characteristics were noted in this RMP even though in 2016 the BLM's Lewistown Field Office identified 200,000 acres as having wilderness characteristics, places that include West Crooked Creek, Dovetail, Cottonwood, Carter Coulee, Horse Camp Trail, and many others. Thus, the RMP has failed to meet the multiple-use requirement.*

Issue Text Excerpt: *Economic and Environmental Concerns. With oil at record low prices, the return on investment for oil and gas drilling is no match for the loss to the public of these irreplaceable intact prairie grasslands and their value of hunting, wildlife habitat, and public recreation. The Lewistown RMP demonstrates that the BLM has abandoned its multiple-use mandate, jeopardized the local economy, and disregarded public stakeholder input and values of public land ownership. I advocate for rejection of this RMP and return to the multiple use mandate by the BLM and Lewistown Field Office.*

Summary:

- The BLM does not explain how the PRMP/FEIS complies with the provisions of FLPMA or its

implementing regulations.

- The PRMP/FEIS fails to include a monitoring program, in violation of FLPMA and monitoring and evaluation requirements outlined in 43 CFR 1610.4-9.
- The BLM failed to comply with its multiple-use mandate and its statutory duty to prepare a management plan that provides and maintains opportunities for a variety of uses on BLM-administered lands.
- Management actions in the Lewistown Proposed RMP and FEIS (BLM 2020) would result in unnecessary or undue degradation of public lands, which violates FLPMA.

Response:

Section 302(b) of FLPMA provides that “in managing the public lands the Secretary [of the Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.” In developing the PRMP/FEIS, the BLM complied with its planning regulations (43 CFR 1610), the requirements of NEPA, and other statutes, regulations, and executive orders related to environmental quality. For example, the PRMP incorporates provisions from Standards and Guidelines for Rangeland Health that prevent unnecessary or undue degradation specific to livestock grazing. The PRMP/FEIS further identifies appropriate allowable uses, management actions, and other mitigation measures that prevent the unnecessary or undue degradation of public lands.

Congress recognized that through the BLM’s multiple-use mandate, there would be conflicting uses and impacts on the public land. Because the PRMP/FEIS would not specifically authorize any uses of public lands, and the alternatives evaluated in the FEIS comply with all applicable statutes, regulations, and policies, the PRMP/FEIS will not result in “unnecessary or undue degradation of the lands” under Section 302(b) of FLPMA.

The BLM is a multiple-use agency and under FLPMA, managing for multiple uses means managing resources so that they are “utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources . . . [and] the use of some land for less than all of the resources . . . with consideration being given to the relative value of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit of output.” It is simply a recognition that not all uses are compatible and should be separated and managed accordingly.

Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses, which involves trade-offs between competing uses. The BLM has wide latitude to allocate the public lands to particular uses, including conservation values, and to employ the mechanism of land use allocation to protect for certain resource values, or, conversely, develop some resource values to the detriment of others, short of unnecessary or undue degradation. Likewise, the Lewistown PRMP/FEIS is not inconsistent with the statement of congressional policy contained in FLPMA Section 102(a)(12), simply recognizing that minerals, food, timber, and fiber are part of the BLM’s multiple-use mission. All alternatives considered in the Lewistown PRMP/FEIS, as described in Chapter 2 (Volume I, pp. 2-8 to 2-56), provide an appropriate balance of uses on the public lands. All alternatives allow some level of all uses present in the Planning Area, in a manner that is consistent with applicable statutes, regulations, and BLM policy. Consequently, the Lewistown PRMP/FEIS is consistent with the multiple-use and sustained yield management requirement in FLPMA Section 302(a), which provides “[t]he Secretary shall manage the public lands under the principles of multiple use and sustained yield, in accordance with the land use plans . . . except that where a tract of such public land has been dedicated to specific uses according to any other provision of law it shall be managed in accordance with such law.”

The Lewistown Proposed RMP and FEIS (BLM 2020) provides for the balanced management of the public lands in the Planning Area, as discussed below. In developing the Lewistown PRMP and FEIS, the

BLM fully complied with its planning regulations (43 CFR 1610), the requirements of NEPA, and other statutes, regulations, and executive orders related to environmental quality.

BLM policy directs offices to identify land use plan implementation priorities within 1 year of signing the record of decision (BLM Instruction Memorandum 2013-14). As stated in Appendix D, this policy will be used to monitor implementation of the revised Lewistown RMP unless directed otherwise by new guidance in the future. “Establishing Implementation Priorities for Land Use Plans” involves a three-step process. The first step is identifying the work associated with implementing the land use plan, the geographic location of work in the Planning Area, and the accompanying program elements that measure that work. During the second step, the priority of the work identified in step one is recorded in a plan implementation worksheet, which is updated annually. In step three, the field office schedules work into the out-years in the relevant columns of the plan implementation worksheet.

Regulations at 43 CFR 1610.4-9 direct that the Proposed Plan establish intervals and standards, as appropriate, for monitoring and evaluating the plan, based on the sensitivity of the resource decisions involved. The BLM periodically reviews the progress in meeting the plan objectives and adhering to the management framework established by the plan. CEQ regulations implementing NEPA state that agencies may provide for monitoring to ensure that their decisions are carried out, and they should do so in important cases (40 CFR 1505.2(c)).

With regard to consistency with the 2015 Sage-grouse Plans, conservation management objectives outlined in the 2015 Record of Decision and approved RMP amendments for the Rocky Mountain region are incorporated into the RMP/EIS. The 2015 amendment allowed free use of mineral materials and the Lewistown RMP simply added an allocation for commercial use. As explained in the response to comments in Appendix X of the Proposed RMP/Final EIS, “[m]ineral material sales would still be subject to disturbance thresholds calculated by Montana. Additional stipulations for fluid mineral leasing in PHMA and GHMA are contained in Appendix L and are consistent with 2015 Sage Grouse management adopted across Montana / Dakotas BLM” (Lewistown PRMP/FEIS. Pg. X-134)

Appendix D of the Lewistown PRMP and FEIS describes activities intended to assist the BLM to monitor implementation and effectiveness of RMP decisions. Implementation and effectiveness monitoring must be carried out as part of land use planning (43 CFR 1610.4-9), but this kind of monitoring relates to the intervals and general standards for monitoring, not detailed information for guiding adaptive management activities under the plan. The BLM will address monitoring and adaptive management of resources through adaptive management strategies on a project-level/site-specific basis as needed to inform decision-making and allow adjustments to the plan (see FEIS, Appendix D). The record of decision will also include a section on monitoring.

Accordingly, this protest is denied.

FLPMA – Protest Process

Leroux, Jocelyn (Western Watersheds Project)

Issue Text Excerpt: The “dear reader” letter accompanying the Final EIS indicates that the “BLM director” will approve the Final RMP and issue a Record of Decision following the resolution of protests. However, the position of BLM director is currently vacant, and because purported BLM Acting Director William Perry Pendley does not meet the requirements imposed by the Federal Vacancies Reform Act (“FVRA”), his appointment is unlawful. See *L.M.-M. v. Cuccinelli*, Case No. 1:19-cv-02676-RDM ECF No. 34, Slip Op. at 41 (D.D.C. March 1, 2020). Consequently, any decisions he issues, including any decision regarding the Lewistown RMP, are also unlawful. Id. at 49-50.

Summary:

The PRMP/FEIS is unlawful because William Pendley Perry is unlawfully appointed under the Federal Vacancies Reform Act and will approve the Final RMP and issue a Record of Decision following the resolution of protests.

Response:

The protest incorrectly alleges that William Perry Pendley will approve the Final RMP and issue a Record of Decision following the resolution of protests. Mr. Pendley took no action on the issuance of the Proposed RMP or the resolution of the protests and will not approve or issue a Record of Decision for this planning effort. Pursuant to the BLM's planning regulations (43 CFR 1610.5-2), the Proposed RMP/Final EIS was subject to a 30-day protest period that ended on March 16, 2020. Consistent with the delegation of authority provided by BLM manual section 1203, the BLM's Acting Assistant Director for Resources and Planning worked with BLM Headquarters staff to resolve these protests. On June 9, 2020, the BLM issued a Protest Resolution Report and each protesting party was notified in writing of the BLM's findings and the disposition of their protests. The Protest Resolution Report was made available on the BLM website.

On September 25, 2020, the U.S. District Court for the District of Montana ruled that BLM Deputy Director for Policy and Programs William Perry Pendley has unlawfully served as the Acting BLM Director for the last 424 days and enjoined him from exercising the authority of the BLM Director. *Bullock v. Bureau of Land Management et al.*, 4:20-cv-00062, (D. Mont. September 25, 2020). On October 16, 2020, after further briefing by the parties, the Court set aside the Missoula and Lewistown RMP Revisions – as well as the Miles City RMP Amendment – on the grounds that Mr. Pendley “exercised the Director’s exclusive authority to resolve protests” on all three plan decisions. Further, the Court determined that “[o]nly the Secretary of the Interior can perform functions or duties of the BLM Director.” *Bullock v. Bureau of Land Management et al.*, 4:20-cv-00062, *4 (D. Mont. October 16, 2020).

Following issuance of the October 16, 2020 Order, the Secretary independently reviewed the protests and proposed Protest Resolution Report, independently approving this Report. Accordingly, your protest is denied.

LANDS WITH WILDERNESS CHARACTERISTICS**Bertram, Aubrey (Montana Wilderness Association)**

Issue Text Excerpt: *This statement asserts, rather than meaningfully analyzes, that the different activities allowed under each alternative would not actually differ in terms of potential future direct, indirect, and cumulative impacts on the wilderness resources in the planning area. There are indeed differences in proposed management between the alternatives with regard to VMR classes and OHV travel. First, in regards to VRM restrictions, the BLM's assertion here is misleading at best, and incorrect at worst, both of which violate NEPA. The proposed plan, Alternative C2, does not comport with the stated conclusion because it does not manage all LWC units with VRM Class I or II protections. While the agency may argue that its Backcountry Conservation Area (BCA) designation for the Crooked Creek complex and its VRM Class II management for those units - including Horse Camp Trail, Spear Coulee, and the Chain Buttes - satisfies here, the agency fails to actually explain how BCA management and its VRM will protect the wilderness characteristics, especially because Alternative C2 specifically does not manage to protect wilderness character at all.*

Issue Text Excerpt: *The direct, indirect, and cumulative impacts of allowing motorized travel and potential*

expansion of such travel in LWC identified units is much greater than under Alternative B, but the BLM fails entirely to discuss these reasonably foreseeable future impacts. (The agency's commitment to roadwork on routes that have not received adequate NEPA analysis is also deeply troubling.)

Issue Text Excerpt: BLM fails entirely to discuss impacts of unit boundary roads, and analyze any negative impacts of road spurs and associated OHV travel impacts on wilderness characteristics specifically. BLM errs in categorically asserting that the topography of the LWCs will limit access and therefore impacts on wilderness character.

Issue Text Excerpt: In short, FLPMA and BLM's own manuals obligate BLM to undertake a robust, consistent, coordinated and transparent analysis of the impacts of its land use plans on Lands with Wilderness Characteristics. Unfortunately, BLM's Final EIS and Proposed RMP fails to adhere to these standards. In addition, the National Environmental Policy Act (NEPA) requires BLM take a "hard look" at the direct, indirect, and cumulative environmental impacts of its Lewistown Resource Management Plan Amendments, and disclose those impacts to the public. 42 U.S.C. § 4332(2)(i); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989). Taking a "hard look" requires "a reasonably thorough discussion of the significant aspects of the probable environmental consequences." *California v. Block*, 690 F. 2d 753, 761 (9th Cir. 1982). The hard look doctrine bars "[g]eneral statements about 'possible effects' and 'some risk' ... absent a justification regarding why more definitive information could not be provided." *Neighbors of Cuddy Mountain v. U.S. Forest Serv.*, 137 F.3d 1372, 1380 (9th Cir. 1998).

Issue Text Excerpt: Finally, Conservation Groups protest the unlawful cumulative impacts analysis found on page 4-126. The FEIS states: "[Cumulative] Effects would depend on the amount of minerals, renewable energy, vegetation treatments, and ROW development in lands being managed to protect wilderness characteristics." pg. 4-126. This statement, which summarizes the presented analysis, fails entirely to quantify all of the potential impacts of anthropogenic sources in the identified LWC units.

Issue Text Excerpt: In terms of impacts on wilderness characteristics specifically, the analysis for the proposed Alternative C2 reads: "Of the areas open, 42,600 acres would be subject to fluid minerals NSO stipulations, which would prohibit surface occupancy and surface disturbance. This would protect the wilderness characteristics in these areas." Pg. 4-123. This statement implies that the 42,600 acres subject to NSO stipulations are all areas with identified wilderness character. This is patently untrue. Only a few LWC units - including the small Dog Creek South - would have NSO protections. While NSO stipulations may protect the wilderness characteristics of those few units, the vast majority of identified LWC units - including key connected landscapes adjacent to the Charles M. Russell National Wildlife Refuge like Carter Coulee, Horse Camp Trail, Spear Coulee, the Chain Buttes, Dunn Ridge, Dovetail, Armells Creek, Drag Creek, Blood Creek, Biggett, and Cottonwood - would not be managed with NSO stipulations, and the agency fails to accurately and meaningfully account for the impacts to those units.

Enk, Micheal

Issue Text Excerpt: I am protesting the BLMs failure to seriously consider predominant public comment that sought greater protection of units having wilderness characteristics.

Issue Text Excerpt: The BLM failed its multiple use mandate by not proposing to manage any of the 200,000 acres identified as Lands with Wilderness Characteristics for those wilderness values. Instead, the BLM opened over 90 percent of the planning area and all the lands identified as having wilderness characteristics to energy development and associated infrastructure. In doing so, it precludes for all practical purposes, managing these lands for their wilderness characteristics with the option of applying designations to protect those characteristics. The Lewistown RMP needs to be modified to restore some semblance of balance to its proposed management direction. That requires that a significant portion of the over 200,000 wilderness-quality acres be managed for their wilderness characteristics. The designation of Recreation Management Areas and Backcountry Conservation Areas is inadequate and provides only superficial protection of their value as undeveloped wildlands.

Good, Mark

Issue Text Excerpt: *The 2016 Lewistown Administrative Draft RMP - Alternative D (Preferred Alternative), also allowed oil and gas leasing on most of the planning area, but at least this draft plan prepared by local Lewistown staff, proposed that over 100,000 acres of the 200,000 acres of land identified as LWCs, be managed to protect wilderness characteristics. This draft plan applies protective stipulations that would prevent energy development and associated infrastructure on these lands, therefore making speculative leasing much less attractive and allowing the BLM to manage these lands to protect their wilderness values. No rationale was provided in either the 2019 Draft EIS RMP or 2020 Final EIS RMP as to why the BLM made the extreme decision to not manage any acres in the plan identified as LWCs to protect wilderness characteristics.*

Issue Text Excerpt: *The BLM has a statutory duty to prepare a management plan that provides and maintains opportunities for a variety of uses on BLM lands. That includes managing some lands for their wilderness characteristics. The BLM failed its multiple use mandate by not managing a single acre of the 200,000 acres identified as Lands with Wilderness Characteristics, for their wilderness characteristics.*

Instead, the BLM made over 90 percent of the planning area and all the lands identified as having wilderness characteristics open to energy development and associated infrastructure. In doing so, it precludes, for all practical purposes, managing these lands for their wilderness characteristics and the option of applying protective designations to protect wilderness characteristics. The Lewistown RMP needs to be modified so it is more balanced. That means managing a significant portion of the over 200,000 acres of land identified LWCs, for wilderness characteristics.

Kerr, Rick

Issue Text Excerpt: *As proposed, over 90 percent of the surface management area will be managed to allow oil and gas leasing even though there are almost no areas within the planning area with high potential for oil and gas development. The potential for recovery in areas with high wilderness and wildlife values such as the areas identified as having wilderness characteristics ranges from very low or non-existent. By any reasonable measure, Alternative C2 cannot be construed as a balanced management plan.*

Issue Text Excerpt: *The BLMs mandate to manage our public lands for multiple use and sustained yield requires consideration of a host of natural and cultural resources. This means that while some areas may be set aside for oil and gas development and associated infrastructure, other areas must be managed for other resources, including wilderness characteristics. Under the proposed alternative C2, the BLM is proposing to manage zero acres for wilderness characteristics.*

Issue Text Excerpt: *The BLM has a statutory duty to prepare a management plan that provides and maintains opportunities for a variety of uses on BLM lands. That includes managing some lands for their wilderness characteristics. The BLM failed its multiple use mandate by not managing a single acre of the 200,000 acres identified as Lands with Wilderness Characteristics, for their wilderness characteristics. Instead, the BLM made over 90 percent of the planning area and all the lands identified as having wilderness characteristics open to energy development and associated infrastructure. In doing so, it precludes, for all practical purposes, managing these lands for their wilderness characteristics and the option of applying protective designations to protect wilderness characteristics. The Lewistown RMP needs to be modified so it is more balanced.*

Summary:

In regards to lands with wilderness characteristics, the BLM failed to:

- Consider the effects on lands with wilderness characteristics
- Protect lands with wilderness characteristics
- Follow its policy when determining whether to manage lands with wilderness characteristics for wilderness character

Response:

Section 102(a)(7) of FLPMA declares that it is the policy of the US that management of the public lands be on the basis of “multiple use” and “sustained yield.” Section 103(c) of FLPMA defines “multiple use” as the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people. Congress recognized that through the BLM’s multiple-use mandate, there would be conflicting uses and impacts on the public lands.

FLPMA clarifies that the term “multiple use” means that not every use is appropriate for every acre of public land, and that the Secretary of the Interior can “make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use . . .” (FLPMA, Section 103(c)). Further, FLPMA directs that the public lands be managed in a manner “that, where appropriate, will preserve and protect certain public lands in their natural condition” (FLPMA, Section 102(a)).

FLPMA authorizes the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, among the various resources in a way that provides for current and future generations. BLM Manuals 6310 and 6320 provide guidance in maintaining information regarding the presence or absence of wilderness characteristics, and to consider identified lands with wilderness characteristics in land use plans and when analyzing projects under NEPA. Specifically, BLM Manual 6320 requires the BLM to ensure that “wilderness characteristics inventories are considered and that, as warranted, lands with wilderness characteristics are protected in a manner consistent with this manual in BLM planning processes” (Manual 6320, Section .04(c)(2)).

The BLM conducted the analysis of lands with wilderness characteristics in the PRMP/FEIS in accordance with BLM Manual 6320, including analysis of both the benefits to and negative impacts on wilderness characteristics from a variety of planning decisions across all alternatives (see Section 4.2.10). Considering wilderness characteristics in the land use planning process may result in several outcomes, including, but not limited to, (1) emphasizing other multiple uses as a priority over protecting wilderness characteristics; (2) emphasizing other multiple uses, while applying management restrictions (e.g., conditions of use and mitigation measures) to reduce impacts on wilderness characteristics; or (3) prioritizing the protection of wilderness characteristics over other multiple uses (BLM Manual 6320).

Appendix M and the Revised Area Profile (AMS 2019) of the Lewistown PRMP and FEIS (BLM 2020) describes the methodology used for determining lands with wilderness characteristics, which includes consideration of guidance from BLM Manuals 6310 and 6320 (see FEIS, pp. 202 and 203). As discussed in that section, 202,400 acres on BLM-administered lands in the Planning Area met the criteria for lands with wilderness characteristics. The Lewistown PRMP/FEIS fully analyzed an alternative (Alternative B) that would manage and protect wilderness characteristics on all 202,400 acres that were identified as meeting the criteria for lands containing wilderness characteristics. A comparison of estimated effects and trade-offs associated with the alternatives led to development and selection of the Proposed Plan (see Lewistown PRMP/FEIS, Section 4.2.10, pp. 4-119 to 4-126). Additional analysis is described for each management action associated with wilderness characteristics by alternative in Appendix U (pp. U-26 and U-27) of the PRMP/FEIS.

FLPMA does not require that all uses be allowed on all areas of the public lands. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses, which involves trade-offs between competing uses.

Under Alternative C2 of the PRMP, the BLM would not manage lands to protect wilderness characteristics; instead, it would manage to prioritize other multiple uses, while applying some

management restrictions to minimize impacts on wilderness characteristics, when and where possible.

In fact, many areas with wilderness characteristics would still be managed to maintain the intact and undeveloped nature of these areas, particularly areas that are used for wildlife-dependent recreation. For example, 93,400 acres of lands with wilderness characteristics in the Crooked Creek Area would be managed as a BCA, which includes management prescriptions that reduce impacts to lands with wilderness characteristics, such as visual resource management Class II, ROW avoidance, RDFs (p. F-12), and fluid mineral stipulations (p. L-40) that address structural developments, surface disturbance, and surface-disturbing activities. The PRMP also analyzes potential impacts on lands with wilderness characteristics, such as surface disturbance, structural developments, and human activity in Section 4.2.10 (see FEIS, pp. 4-119 to 4-126) and Appendix W (pp. W-69 to W-72).

The BLM followed its policies when determining what lands to consider for management of wilderness characteristics and its regulations and policies when determining management of the public lands in the PRMP/FEIS. The BLM properly analyzed the effects of the Proposed Plan on lands with wilderness characteristics and fully complied with FLPMA in the Lewistown PRMP/FEIS. Accordingly, this protest is denied.

LIVESTOCK GRAZING

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *The FEIS fails to utilize the science concerning noxious weed spread from livestock grazing. The FEIS highly downplays the clear implication in scientific literature that livestock are a major vector for noxious weed spread. Historically, soil crusts occurred on almost all soil types in grasslands and shrublands. There is no RMP direction which actually protects and restores these critical biological crusts. The FEIS (Chapters 3 and 4) doesn't analyze or disclose the degree of noxious weed spread due to livestock grazing. It doesn't quantitatively estimate soil damage due to livestock grazing. It doesn't quantitatively estimate riparian habitat damage due to livestock grazing. It doesn't analyze or disclose the interaction between upland vegetation changes due to livestock grazing, fire behavior, and forest composition. The FEIS doesn't analyze or disclose the expected annual infrastructure maintenance and installation costs paid for by taxpayers for the benefit of livestock grazing.*

Issue Text Excerpt: *The FEIS fails to consider the environmental implications of recently proposed new grazing regulations, fails to consider best available science on the impacts of livestock grazing in violation of NEPA, and fails to adequately analyze and disclose direct, indirect, and cumulative environmental impacts of livestock grazing on other resources and values, in violation of NEPA. The RMP does not present the balanced approach FLPMA requires for protection of other resources and values in consideration of the ecological and economic costs of livestock grazing....The FEIS (Chapters 3 and 4) fails to consider that the federal government has proposed new grazing regulations, which would weaken already inadequate protections for natural values on public lands.*

Issue Text Excerpt: *Appropriations for BLM and Forest Service grazing programs have exceeded grazing receipts by at least \$120 million annually since 2002, according to the study. This federal subsidy goes well beyond the direct costs and fees. There are vast indirect costs of grazing on public lands, including government killing of native carnivores and other wildlife. The FEIS doesn't analyze or disclose the costs and impacts of Wildlife Services destruction of wildlife species at the behest of grazing interests.*

Leroux, Jocelyn (Western Watersheds Project)

Issue Text Excerpt: *Per WWP's previous comments regarding objectives and monitoring BLM was silent in the PRMP/FEIS. WWP stated that "in terms of livestock grazing, there is no information provided about how the BLM will ensure that riparian objectives are being met, how utilization standards are being met, how soils are being impacted by permitted grazing, etc. The DEIS should analyze a monitoring plan for grazing allotments in the planning area and the DRMP should propose a monitoring schedule that will be adhered to." (p.20). Instead,*

BLM stated that "to meet these requirements, the BLM will prepare periodic reports on the implementation of the RMP," and that grazing allotment monitoring occurs at the "allotment and watershed planning scale." (Appendix X. X-302). This ignores the rapidly changing environment that BLM itself recognizes due to climate variability and relies on "periodic" reports. A schedule with ensure BLM is held accountable for reviewing impacts on grazing allotments to that management can be adjusted according to the adaptive management strategies outlined in Appendix D.

Issue Text Excerpt: The PRMP/FEIS analysis of livestock grazing is minimal and ignores the degraded conditions that already exist and are certain to be exacerbated.

Issue Text Excerpt: BLM has failed to include a reduction in livestock grazing for the preferred alternative. Although BLM states a climate goal as "reduce greenhouse gas (GHG) emissions from authorized activities to the lowest practical levels that are technically and economically feasible based on current technologies" (Se 2.9 p. 2-8), they fail to include an action related to livestock grazing even though livestock grazing has been identified as a contributor to GHG emissions. BLM additionally failed to consider the cumulative impacts of management activities and climate variability. Climate variability will exacerbate impacts from wildfires, exacerbate the spread of invasive species (which WWP included analysis of in our comments and BLM chose to ignore), and exacerbate the impacts of livestock grazing. By failing to consider the large impacts of livestock to the air and atmospheric resources of the plan area, BLM is violating FLPMA by proposing to continue management of the plan area that provides for unnecessary and undue degradation. By ignoring the science and instead proposing a proposed alternative that continues to allow livestock grazing on 280,300 acres of overlapping sensitive soils (Table 4-1 I), BLM is clearly skirting their duty to avoid unnecessary and undue degradation... The combined impacts of climate change, soil resource degradation, and vegetation impacts under alternative C2 clearly fails to comply with the requirements to avoid unnecessary and undue degradation under FLPMA.

Issue Text Excerpt: The failure of BLM to consider the broad impacts of livestock grazing to the plan area and increase acreage available for livestock grazing rather than reduce it, is a blatant violation of FLPMA and thus renders the RMP and FEIS invalid. Although WWP clearly expressed concern that reliance on the Montana Standards and Guidelines for the Lewistown Field Office is simply not sufficient to achieve improvement in resource conditions, BLM failed to analyze the effectiveness or ineffectiveness of the existing standards and guidelines as requested. The FEIS should include an analysis of whether the Standards and Guidelines are effective in improving conditions, adapting to a changing climate, and addressing the persistence and spread of invasive species. Instead, BLM chose to ignore this comment and continue to rely on Standards and Guidelines that have not been reviewed for effectiveness.

Summary:

In the Lewistown PRMP/FEIS, the BLM failed to:

- Analyze or disclose relevant information regarding the economic effects of livestock grazing
- Consider the environmental implications of recently proposed new grazing regulations
- Consider best available science of the impacts of livestock grazing, in violation of NEPA
- Adequately analyze and disclose direct, indirect, and cumulative environmental impacts of livestock grazing on other resources and values, in violation of NEPA

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that 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 Lewistown PRMP and FEIS (BLM 2020).

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. The baseline data provide the necessary basis to make informed land use plan-level decisions. 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 constructing range improvement projects or modifying grazing permits), the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. This analysis identifies impacts that may result in some level of change to the resources or uses, regardless of whether that change is beneficial or adverse.

Under all alternatives, the Montana/Dakotas Standards for Rangeland Health and Guidelines for Livestock Grazing provides guidance for protection of soil, water quality, and riparian function (see Appendix N). As described above, the Lewistown Proposed RMP and FEIS (BLM 2020) scope of analysis is at a regional, programmatic level. Impacts from planning-level decisions and management actions relating to livestock grazing are discussed throughout the Lewistown Proposed RMP and FEIS, including *Livestock Grazing* (Section 4.3.2), *Vegetation* (Section 4.2.4), *Air Quality and Climate Change* (Section 4.2.1), *Soil Resources* (Section 4.2.2), *Water Resources* (Section 4.2.3), and *Fish and Wildlife* (Section 4.2.5).

The BLM fully analyzed eliminating livestock grazing in the LFO Greater Sage-Grouse Proposed RMP Amendment/Final EIS (BLM 2015b). The analysis was done for PHMA and GHMA. These areas constitute 337,165 acres of BLM-administered lands occurring throughout Chouteau, Fergus, Judith Basin, Meagher, and Petroleum Counties, with 69,408 associated animal unit months (AUMs), all of which are in this Planning Area. Possible changes in the BLM's grazing regulations were not considered as part of the analysis. This is because a proposed rule revising the regulations has not been issued and is not expected to be issued until a later date.

The Lewistown Proposed RMP/FEIS includes management actions for the BLM to meet the Standards for Rangeland Health, which were incorporated by reference into the RMP (see Appendix N). Grazing leases are generally reviewed on a 10-year schedule to determine whether standards are being met. At the site-specific review of the lease renewals, the BLM may adjust grazing levels, management practices, and range improvements when needed to meet or make progress toward meeting the standards for rangeland health.

Because the Lewistown Proposed RMP and FEIS would not authorize any uses of the public lands, and the alternatives evaluated in the FEIS comply with all applicable statutes, regulations, and policy, including Standards for Rangeland Health, the RMP will not result in unnecessary or undue degradation of the lands under Section 302(b) of FLPMA.

At the allotment level, the BLM would conduct a site-specific NEPA analysis to determine if there is a need to adjust lease terms and conditions, including changes to AUMs, the season of use, rest rotations, or removal of cattle from a portion or all of the allotment for a duration of time. Maintaining riparian, soil, and habitat conditions will be considered in making those adjustments. The Lewistown Proposed RMP establishes continuation of the current area-wide livestock levels. Any allowances for increases would be based on forage availability of site-specific allotments. As described on p. 2-36 of the Lewistown PRMP and FEIS, allotments where standards for rangeland health are not met and livestock grazing is a significant causal factor for non-achievement, the BLM will take appropriate action to achieve

or make progress toward achieving unmet rangeland health standards, which includes suspending use all, or in part.

The methodology used to determine the economic impacts from management actions of the Lewistown PRMP and FEIS are discussed in *Socioeconomics* (Section 4.5) and *Livestock Grazing* (Section 4.3.2). As stated in those sections, the economic impacts analysis used the Impact Analysis for Planning (IMPLAN) modeling system, which uses BLM expenditures and resource uses to estimate the economic consequences of project implementation. Quantitative inputs (such as AUMs, recreation visits, and Department of the Interior payments to counties) were obtained from various program areas for this analysis. IMPLAN not only examines the direct contributions from the BLM but also indirect and induced effects.

Related to cost trade-offs specific to the BLM's grazing program, NEPA does not require an economic cost-benefit analysis, and the Lewistown planning and NEPA process did not conduct an economic cost-benefit analysis. The PRMP/FEIS did not consider changes to the grazing regulations or increases to grazing fees because those changes are outside the scope of a land-use plan and the BLM has not issued a proposed rule amending the regulations. Moreover, any changes to the BLM's regulations would be subject to a subsequent NEPA process.

The BLM complied with FLPMA. The Lewistown PRMP/FEIS does not result in unnecessary or undue degradation. It fulfills NEPA's requirement to analyze the environmental consequences and impacts from livestock grazing in the Lewistown Proposed RMP and FEIS by disclosing the direct, indirect, and cumulative environmental impacts of livestock grazing on other resources and values. Accordingly, this protest is denied.

MINERALS AND ENERGY

Bertram, Aubrey (Montana Wilderness Association)

Issue Text Excerpt: This CSU setbacks for slopes, rivers/streams/floodplains, water/wetlands are significantly different than the EPA's recommended NSO setback for these same resources. The agency failed to articulate precisely why its chosen setback differs so drastically from those of the EPA. Furthermore, the BLM fails to take a meaningfully hard look anywhere in this FEIS on the direct, indirect, and cumulative impacts of its chosen NSO and CSU setback stipulations.

Doughty, Paul

Issue Text Excerpt: As stated in my comments on the proposed RMP, the BLM methodology that resulted in the no surface occupancy for over 400,000 acres of land available for fluid mineral leasing is FLAWED. The BLM's answer to the original comments did not address the methodology used or the scientific basis. To wit: the average size of an oil and gas pad is about 2 acres, but the BLM has decided to make 400,000 acres NSO without studying the 400,000 acres as the correct scale. THIS A FLAWED METHODOLOGY. The BLM cannot designate the entire 400,000 acres NSO without studying them at the scale of a well pad because the surface of the land and its inhabitants are not uniformly distributed across the entire 400,000 acres and there could be areas within the 400,000 acres that could be appropriate for surface disturbance at the scale of a well pad. Without doing the study at the correct scale, it is not scientifically possible to determine if ALL of the lands within the 400,000 acres should be NSO. Therefore the BLM's analysis and NSO decision is arbitrary and not supported by any rational scientific methodology.

Summary:

The BLM failed to take a meaningfully hard look in the PRMP/FEIS at the direct, indirect, and cumulative impacts of its chosen NSO and controlled surface use setback stipulations and used flawed methodology in its application of leasing stipulations.

Response:

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. The baseline data provide the necessary basis to make informed land use plan-level decisions.

Stipulations were developed in coordination with the State of Montana and evaluated for consistency with existing stipulations currently in use in the Montana/Dakotas BLM. Because stipulation 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 APD to start drilling), the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. Appendix W discusses fluid mineral leasing constraints and describes under what conditions development could occur (p. W-75). Each resource listed in Appendix W contains its own specific analysis assumptions and nature and types of impacts specific to disturbances associated with this type of development. Volume I, Chapter 4 contains a comparison of acreage by alternative for each resource based on the discussion of the nature and type of impacts in Appendix W. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Appendix W also presents the cumulative effects scenario. Appendix L contains a complete list of stipulations with varying degrees and distances for setbacks by alternative. When applying leasing restrictions, the least restrictive constraint to meet the resource protection objective should be used (Land Use Planning Handbook, Appendix C, p. 24).

Land use management plans serve as the primary vehicle for determining the need to apply lease stipulations on the fluid mineral estate underlying BLM-administered lands, privately owned lands, and state-owned lands (BLM Handbook 1624-1). All future site-specific determinations must conform with the RMP and will be used in the process of approving notices of intent, APDs, geothermal drilling permits, field development plans, utilization plans and permits, sundry notices, and reclamation plans. Based on the AMS, the interdisciplinary team formulated a reasonable range of alternatives that responded to identified issues and concerns, resolving conflicts and considering opportunities for enhancing or expanding resources or resource uses. The interdisciplinary team identified any surface or subsurface management constraints or mitigating measures that were required to take advantage of leases are generally reviewed on a 10-year schedule to determine whether standards are being met. At the site-specific review of the lease renewals, the BLM may adjust grazing levels, management practices, and range improvements when needed to meet or make progress toward meeting the standards for rangeland health.

Because the Lewistown Proposed RMP and FEIS would not authorize any uses of the public lands, and the alternatives evaluated in the FEIS comply with all applicable statutes, regulations, and policy, including Standards for Rangeland Health, the RMP will not result in unnecessary or undue degradation of the lands under Section 302(b) of FLPMA.

At the allotment level, the BLM would conduct a site-specific NEPA analysis to determine if there is a need to adjust lease terms and conditions, including changes to AUMs, the season of use, rest rotations, or removal of cattle from a portion or all of the allotment for a duration of time. Maintaining riparian, soil, and habitat conditions will be considered in making those adjustments. The Lewistown Proposed RMP establishes continuation of the current area-wide livestock levels. Any allowances for increases would be based on forage availability of site-specific allotments. As described on p. 2-36 of the Lewistown PRMP and FEIS, allotments where standards for rangeland health are not met and livestock grazing is a significant causal factor for non-achievement, the BLM will take appropriate action to achieve or make progress toward achieving unmet rangeland health standards, which includes suspending use all, or in part opportunities and to resolve any problems. These mitigating measures or constraints were

translated into lease stipulations in accordance with BLM Handbook H-1624-1. In identifying constraints on fluid minerals activities, the team considered the least restrictive stipulation to accomplish resource objectives and the potential effects of overlapping constraints (see Appendix L).

The Lewistown PRMP establishes guidelines by which future waivers, exceptions, or modifications may be granted. Application of stipulations is based on best available science, which may include BLM data or data from other federal, state, and local agencies; professional publications; or site visits at the project planning stage. The district or area manager establishes the site-specific conditions under which exploration, development, and abandonment will be permitted on specific leases, and determines if stipulation waivers, exceptions, or modifications are warranted. A description of these conditions is located in Appendix L and further described in Section L.3 (p. L-4).

Lease stipulations would be applied, as applicable, to all new leases and to expired leases that are reissued. The BLM Authorized Officer could modify, make exceptions to, or waive stipulations and restrictions depending on the allowances for waivers, exemptions, and modifications listed on the individual stipulations in Appendix L, and evaluation of a site-specific assessment of those resources at the time a parcel is nominated for leasing. These actions provide a viable and effective means of applying adaptive management techniques at the project scale to development of fluid minerals leases. Accordingly, this protest is denied.

PUBLIC PARTICIPATION

Enk, Micheal

Issue Text Excerpt: *I am protesting the BLMs failure to seriously consider predominant public comment that sought greater protection of units having wilderness characteristics.*

Hanley, Jerry

Issue Text Excerpt: *BLM failed to consider best available and scientific information I submitted in HANLEY COMMENTS.... This failure by BLM to use best available science and supporting studies which have been at BLM's immediate disposal, some, for nearly 10 years and furthermore brought to BLM's attention through the public participation and commenting process, has resulted in the erroneous assertions and potential actions found in LPRMP, Vol I, 4-182 and Vol III, U-34, Alt B & D*

Issue Text Excerpt: *The LFO failed to include HANLEY COMMENTS in the record until 2/26/20 – over 6 months after I submitted them. Two weeks after the LPRMP public release and 13 days into the 30-day Protest period! Therefore, LFO failed to properly consider my HANLEY COMMENTS in a timely and prudent manner*

Juel, Jeffrey (Alliance for the Wild Rockies)

Text Excerpt: *The RMP Chapter 2 emphasizes certain "Management Actions" are to occur without ever defining that category of RMP guidance. In response to this comment, FEIS Appendix X states, "Change made. The term "Management Actions" has been updated for clarity in the glossary." This is completely false-no definition appears.*

Issue Text Excerpt: *The BLM fails to respond to environmental issues we and others raised in previous comments. The FEIS fails to consider scientific information we submitted as supporting our comments. And the BLM also squelches public participation by simultaneous scheduling of the protest period for two RMPs. FLPMA requires that Resource Management Plans (RMPs) be developed with "public involvement" and then used in managing the public lands. See 43 U.S.C. § 1712(a) ("The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts of areas for the use of the public lands."). NEPA requires the BLM to respond in writing to comments the public and other agencies submit on the Draft EIS.... In failing to provide enough information (FEIS Appendix X: Responses to Public Comments), the BLM places an undue burden on members of the public, who are forced to make extra efforts in an attempt understand the government's management and its likely*

environmental impacts. We protest that the BLM ignored so many comments, including AWR's, in violation of NEPA... The agency's failure to respond appropriately and transparently engenders lack of public confidence in its land management capabilities, and violates NEPA. Scientific information is a major component of AWR's previous comments... We questioned in detail the scientific basis for the draft RMP, and the scientific veracity of analyses. A public concern found in the BLM Missoula Field Office proposed RMP FEIS is, "Releasing two Draft EIS/Draft RMPs in Montana does not give sufficient time to analyze both documents; the process creates disincentive for public engagement and public discourse and disregards the BLM's FLPMA responsibilities for balanced management..." So what does the BLM do in response to that concern? It now releases both FEISs simultaneously, forcing concerned members of the public to write protests of both in an even shorter time frame- 30 days! BLM contempt for public participation is resounding.

Issue Text Excerpt: FEIS Appendix X states, "A Biological Assessment will be prepared for Threatened and Endangered species on the proposed action for consultation with the US Fish and Wildlife Service. ...Preparation of the Biological Assessment for the Lewistown RMP is being prepared separately outside the RMP process. BLM is not required to make the Biological Assessment available to the public." This thwarts NEPA's intent for government agencies to involve the public at the appropriate stage of the process.

Issue Text Excerpt: There is no draft RMP direction which actually protects and restores these critical biological crusts. A Management Action is: "Avoid and mitigate disturbance to biologic soil crusts that are determined to be key in sustaining PFC of upland soil health" (Emphasis added). Which biologic crusts can be sacrificed, and what is your criteria for determining they are not "key"? The BLM failed to respond.

Issue Text Excerpt: Our comments on the Draft RMP included: We ask that all Best Available Scientific Information (BASI) the BLM relies upon for this planning process be placed on the RMP website as soon as possible, and maintained there as a matter of public record and access as long as the revised land management plan is being designed and implemented. We also request that all scientific references and other documents submitted as part of comments during this and previous revision comment periods be placed on the website. This is important because science is an ever-evolving process, and fully informed decisions and sound management are only possible when managers, agency specialists, and the public are kept up to date. We request that the references cited in these comments be included as BASI for this revision process. If the BLM does not agree with any of these references being BASI, we ask that you provide an explanation. Our previous comments also requested the BLM conduct a Science Consistency Review for this revision process, and this comment was ignored.

Summary:

The BLM failed to consider and respond to public comments to the level required by NEPA.

Response:

The BLM is required to assess, consider, and respond to all substantive comments received (40 CFR 1503.4). Substantive comments are those that reveal new information, missing information, or flawed analysis that would substantially change conclusions (BLM Handbook H-1601-1, pp. 23–24).

In compliance with NEPA, the BLM considered and responded to all substantive public comments submitted on the draft RMP/EIS. The BLM complied with 40 CFR 1503.4 by performing a detailed comment analysis. Appendix X of the FEIS and in the Lewistown PRMP/FEIS Errata (February 2020) presents the BLM's responses to substantive comments, including biological crusts. The BLM evaluated suggested references and new information identified in the public comment period and concluded that they did not substantially change the analysis and that use of a science consistency review tool was not warranted (Lewistown PRMP/FEIS, Appendix X, p. X-88).

The BLM summarized the issues raised by each comment letter and provided a meaningful response. The BLM's response identifies any modifications to the alternatives, improvements to the impacts

analysis, or factual corrections made as a result of public comment, where necessary. The BLM's response also explains why certain public comments did not warrant further agency response. Associated documents addressing public comments can be viewed on the ePlanning website at <https://go.usa.gov/xUPsP>.

The BLM gave careful consideration to comments submitted by other government agencies, public organizations, state and tribal entities, and interested individuals. Public scoping efforts enabled the BLM to identify and shape significant issues pertaining to recreation opportunities, wildlife habitat, mineral exploration and development, cultural resources, grazing, land tenure, potential ACECs, public land access, and other program areas. Cooperating agencies provided comments at critical intervals during the alternative development process. Appendix X (Comment Summary and Response Report) of the Lewistown PRMP/FEIS describes the public comment and response process to finalize the EIS.

The BLM developed the Lewistown PRMP/FEIS applying the principles of "best available" data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012). The Lewistown PRMP also properly applied CEQ regulations (40 CFR 1500.1(b)). Please see the response, above, in the section heading *Best Available Science*.

Accordingly, this protest is denied.

PUBLIC SAFETY

Bertolotti, Gary (Department Montana, Fish, Wildlife and Parks)

Issue Text Excerpt: *At this time Montana Fish, Wildlife and Parks (FWP) is officially submitting this letter of protest regarding RMP: DOI-BLM-MT-L060-2014-0015-RMP-EIS (Lewistown Resource Management Plan). Specifically, Montana Fish, Wildlife and Parks is protesting the proposed no firearms restriction outside of developed recreation area found on page Q-12 in appendix Q.4 Lowry Bridge Special Recreation Area. Montana Fish, Wildlife and Parks has historically worked with local BLM staff to assure public safety is addressed while providing diverse and ample recreational opportunities. FWP believes the current weapons restriction of shotgun and archery only equipment for hunting is more than adequate for the size of the property (72.98 acres). The current weapons restrictions allow for waterfowl, upland bird and deer hunting in a safe and prudent manner. The property has a developed campground and is bordered by private residences on three sides and does not lend itself for the use of high velocity rifles. The current weapons restrictions have allowed for a quality hunting experience with limited conflict with other users and the surrounding landowners. Montana Fish, Wildlife and Parks believes that lifting these restrictions may lead to increased conflicts that their enforcement staff (Wardens) will have to respond to. This increased response will negatively effect Montana Fish, Wildlife and Parks in that it will take away limited and valuable enforcement time that could be used to protect the resources in other areas.*

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *Implicit in the RMP/FEIS is the assumption that fire risk can be mitigated to a significant degree by reacting in opposition to natural processes-namely the growth of various species of native vegetation propagandized as "fuels." The BLM oversells the ability of land managers to make conditions safe for landowners and firefighters. This could lead to landowner complacency- thereby increasing rather than decreasing risk. Many likely fire scenarios involve weather conditions when firefighters can't react quickly enough, or when it's too unsafe to attempt suppression. With climate change, this is likely to occur more frequently. Other likely scenarios include situations where firefighting might be feasible but resources are stretched thin because of priorities elsewhere.*

Simons, James

Issue Text Excerpt: *We Protest the removal of weapons restrictions. Allowing the discharge of projectiles that can travel more than a mile would create a real safety threat for the general public at the developed campsite,*

hunters in the field, fisherman and floaters, and the neighboring landowners. The Lowry area outside the developed campsite is approximately 500 yards North/South and 500 yards East/West, less than 1/3 of a mile. It is bordered on the West by an actively used country road. The inability to control the downrange impact of high-powered projectiles within and outside Lowry, compared to the lethal range of such, would create a significant safety hazard for the public and neighbors. Of the four residences, the closest to a Lowry fence line is 330 yards (our home) and the others range from 500 to 600 yards, well within range of a rifle. Given the lethal ranges of rifles, the safety issue is real and troubling.

In addition to safety concerns to the public and neighbors, we believe that removing weapon restrictions would represent a safety issue to livestock on surrounding properties. Given the distance from Lewistown and the limited frequency of LEO patrol (and length of time to even respond), the balance at Lowry is largely managed by the public, Montana FWP Wardens, county LEOs, and the neighbors. While there are occasional issues, the current status quo is largely working.

Summary:

The BLM used incorrect assumptions and an incomplete analysis in the PRMP/FEIS that fire risk can be mitigated to a significant degree by reacting in opposition to natural processes, namely the growth of various species of native vegetation propagandized as “fuels.”

The BLM’s removal of the weapons restriction at Lowry Bridge would result in a public safety hazard.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that 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 Lewiston PRMP/FEIS.

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 fuels reduction projects), the scope of the analysis was conducted at a regional, programmatic level. Implementation decisions generally constitute the BLM’s final approval allowing on-the-ground actions to proceed. Unlike land use plan decisions, implementation decisions are not subject to protest under the planning regulations.

Instead, implementation decisions are subject to other administrative remedies, particularly appeals to the Office of Hearing and Appeals (Interior Board of Land Appeals). Where implementation decisions are made as part of the land use planning process, they are still subject to the appeals process or other administrative review, as prescribed by the specific resource program regulations, after the BLM resolves the protests to land use plan decisions and issues a decision. Appendix Q (p. Q-14) of the Lewistown PRMP/Final EIS describes implementation actions for the Lowry Bridge SRMA, which includes designation of additional campsites and shooting restrictions.

In Appendix W, the BLM describes the impacts and analysis assumptions from proposed management actions of wildfire ecology and management (pages W-52 to W-54). Here, the BLM included goals, objectives, and actions to reduce public safety risks from wildfire.

The BLM addresses public safety concerns on BLM-administered lands as they are identified regardless of the alternative selected (Lewistown PRMP/FEIS, Section 3.5.3). Specific to the BLM's removal of the weapons restriction at Lowry Bridge, Appendix Q (p. Q-14) clearly identifies this as an implementation decision; therefore, it is not subject to protest under the planning regulations. Instead, implementation decisions are subject to other administrative remedies, particularly appeals to the Office of Hearing and Appeals (Interior Board of Land Appeals) after a decision is issued. This implementation decision will not be included in the Approved Plan, and the BLM will maintain the status quo for the discharge of firearms (limited to shotgun and archery only) at the Lowry Bridge SRMA. The BLM will continue supporting the Department of the Interior Supplemental Rule published in the *Federal Register* on Wednesday, September 1, 1999 (Volume 64, No 169; 47860).

Accordingly, this protest is denied.

PURPOSE AND NEED

Leroux, Jocelyn (Western Watersheds Project)

Issue Text Excerpt: *BLM states the need of the proposed amendment (sic) is to address new policies and resource issues that have arisen since the implementation of the previous RMPs including the need to maintain and improve terrestrial and aquatic habitats-yet the Proposed Alternative (C2) fails to do this. Additionally, the Purpose and Need for the Resource Management Plan Section fails to mention adaptation to climate change as a changed circumstance that requires action, even after WWP provided significant evidence for this need in both scoping and comments.*

Issue Text Excerpt: *BLM Failed to Express a Need for Action Based on the Failure of the Previous RMPs to Significantly Improve Degraded Conditions on BLM Lands The Council on Environmental Quality (CEQ) regulations direct an EIS "...shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action" (40 CFR 1502.13). The CEQ regulations also direct that EAs "...shall include brief discussions of the need for the proposal..." (40 CFR 1508.9(b)). By defining the need improperly, the basis of the PRMP/FEIS analysis is flawed. BLM fails to express a need for action based on the failure of the previous RMPs to significantly improve degraded conditions on BLM lands, despite WWP's previous comments that the Purpose and Need for Action must acknowledge the previous failures to improve degraded conditions and to include adaptation to climate change as a changed circumstance that requires action.*

Summary:

The BLM failed to express a need for action based on the failure of the previous RMPs to significantly improve degraded conditions on BLM-administered lands. The purpose of and need for action must acknowledge the previous failures to improve degraded conditions and to include adaptation to climate change as a changed circumstance that requires action.

Response:

In accordance with NEPA, the BLM has discretion to establish the purpose of and need for a proposed action (40 CFR 1502.13). The BLM must construct its purpose and need to conform to existing decisions, policies, regulations, or laws (BLM Handbook H-1790-1, Section 6.2).

Agencies have considerable discretion to define the purpose of and need for a project.

The purpose of the Lewistown PRMP/FEIS is to respond to the requirement that BLM-administered lands and minerals in the Planning Area are managed in accordance with the multiple-use and sustained yield principles stated in FLPMA (Lewistown PRMP/FEIS, p. 1-1). A plan revision was completed because new policies and resource issues have arisen since the adoption of the previous RMPs. Evaluations of existing decisions in the Judith and Headwaters RMPs indicated that there was a need for a plan revision. The AMS provides a detailed description of previous planning decisions and describes opportunities for change. The current condition of all resources and resource uses is provided in Chapter 3 (Volume 1, pp. 3-1 to 3-8) and the revised AMS (2018) available at <https://go.usa.gov/xUPsP>. The purpose and need statement for the Lewistown PRMP/FEIS planning process provides the appropriate scope to allow the BLM to analyze a reasonable number of alternatives that represent alternative approaches for managing the public lands in the Planning Area. Accordingly, this protest is denied.

RANGE OF ALTERNATIVES

Bertram, Aubrey (Montana Wilderness Association)

Issue Text Excerpt: *This alternative "emphasizes improving, rehabilitating, and restoring resources and sustaining the ecological integrity of habitats for all priority plant, wildlife, and fish species, while allowing*

appropriate development scenarios for allowable uses." Pg. ES-4. Alternative B proposes to manage the 202,400 identified LWC units "to emphasize other multiple uses while applying management restrictions to reduce effects on wilderness characteristics." Pg. 2-28. This alternative does not actually seek to manage wilderness character as a valid multiple use, but instead seeks to mitigate or reduce impacts of other uses that are incompatible with or damaging to wilderness character. Nonetheless, this alternative offers, among other stipulations, VRM Class II, closed to motorized and mechanized travel, ROW exclusion, and no energy leasing whatsoever, all of which would significantly retain and preserve the wilderness characteristics of these 202,400 acres.

Leroux, Jocelyn (Western Watersheds Project)

Issue Text Excerpt: This range of alternatives has several major flaws as we pointed out in our previous comments, (p. 12) "BLM has not conducted a thorough capability and suitability analysis for the planning area and certainly has not done so in light of the changing climatic conditions that are occurring and are predicted to occur." BLM's alternatives do not provide adequate analysis to the impacts of land use changes with the inevitability of climate impacts. Additionally, BLM ignores the science provided by WWP in previous comments. WWP explained why the BLM should study reasonable alternatives that incorporate the impacts of climate change that were left out of the RMP/DEIS the first time around. BLM fails to respond to WWP's continued request to include a thorough evaluation of climate change impacts and the compounded impacts of livestock grazing... The proposed alternative (C2) fails to address these issues and even opposes them, stating that "the appropriate development scenarios for allowable uses would emphasize maximizing resource production in an environmentally responsible manner, similar to Alternative C1" (ES.4.4 p. ES-4). However, based on all of the evidence provided above, and in WWP's comments, Alternative C2 fails to protect the environment from degradation. In addition, BLM failed to analyze an alternative that allows for the permanent retirement of grazing allotments that are waived by the permittee for the purpose of permanently ending grazing on that allotment.

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: The BLM failed to fully analyze and consider a reasonable range of alternative plans, in consideration of the issues we and others presented in comments and supported by sound scientific information-in violation of NEPA and FLPMA. AWR's comments on the Draft RMP/DEIS plan revision stated: We propose, for full analysis in a Supplemental Draft EIS, an Ecological/Biocentric RMP informed by sound scientific principles and sets a positive future for these lands-one which emphasize the outstanding wild, natural and appropriate recreational values. It would also take advantage of the opportunity to create economic benefits through citizen appreciation of nature while providing genuine restoration work such as road decommissioning.

Issue Text Excerpt: Although the RMP now includes two versions of the draft's Alternative C, it still fails to encompass a wide enough range to incorporate the vision and science we submitted in our comments. The BLM failed to properly consider AWR's comments concerning alternatives to the BLM's. This violates the Planning regulations at 43 CFR §1610.4-5, which state: At the direction of the Field Manager, in collaboration with any cooperating agencies, BLM will consider all reasonable resource management alternatives and develop several complete alternatives for detailed study. Nonetheless, the decision to designate alternatives for further development and analysis remains the exclusive responsibility of the BLM. The alternatives developed shall reflect the variety of issues and guidance applicable to the resource uses. In order to limit the total number of alternatives analyzed in detail to a manageable number for presentation and analysis, all reasonable variations shall be treated as sub-alternatives. One alternative shall be for no action, which means continuation of present level or systems of resource use. The plan shall note any alternatives identified and eliminated from detailed study and shall briefly discuss the reasons for their elimination.

Summary:

The BLM failed to analyze an adequate range of alternatives for grazing in the Lewistown Proposed RMP and FEIS (BLM 2020), including an alternative that included permanent grazing permit retirements, climate, and an ecological/biocentric alternative. Additionally, the BLM's No Action Alternative is not an

accurate baseline to compare the other alternatives against, as it does not take into account newer policies requiring identifying and inventorying wilderness characteristics and complete information regarding climate change.

Response:

When preparing an EIS, an agency should rigorously explore and objectively evaluate all reasonable alternatives; for alternatives that are eliminated from detailed study, the agency should briefly discuss the reasons for eliminating them (40 CFR 1502.14(a)). When there are potentially a large number of alternatives, the BLM may elect only to analyze a reasonable number to cover the full spectrum of alternatives (BLM Handbook H-1790-1, Section 6.6.1 quoting Question 1b, CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981).

The BLM must evaluate a range of reasonable alternatives, but not every possible alternative to a proposed action: "In determining the alternatives to be considered, the emphasis is on what is 'reasonable' rather than on whether the proponent or applicant likes or is itself capable of implementing an alternative. 'Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant'" (BLM NEPA Handbook, H-1790-1, p. 50 [citing Question 2a, CEQ, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981]); see also 40 CFR 1502.14.

The BLM analyzed a range of reasonable alternatives that meet the purpose of and need for the Lewistown Proposed RMP and FEIS (BLM 2020) and that address resource issues identified during the scoping period. The Lewistown Proposed RMP and FEIS analyzed five alternatives, including the proposed alternative, which is described in Chapter 2 (see Lewistown PRMP/FEIS pp. 2-1 to 2-56). The alternatives analyzed in the Lewistown Proposed RMP and FEIS cover the full spectrum by varying in 1) degrees of protection for each resource and use; 2) approaches to management for each resource and use; 3) mixes of allowable, conditional, and prohibited uses in various geographic areas; and 4) levels and methods for restoration.

Agencies may dismiss an alternative from detailed analysis (40 CFR 1502.14). The agency must briefly discuss the reasons for having dismissed the alternative from detailed analysis (40 CFR 1502.14). An alternative may be eliminated from detailed study if it is determined not to meet the proposed action's purpose and need; it is determined to be unreasonable given the BLM mandates, policies, and programs; it is substantially similar in design to an alternative that is analyzed; its implementation is speculative or remote; or it is technically or economically infeasible (BLM Handbook, H-1790-1, Section 6.6.3).

The FEIS states that the Proposed RMP meets the purpose and need with an emphasis on providing an appropriate mix of uses on BLM-administered lands and mineral estate. The BLM did consider other alternatives, including an alternative that made the entire decision area unavailable to livestock grazing; however, the BLM did not analyze these alternatives in detail because they did not meet the purpose and need (see FEIS, Section 2.8). As stated in that section, the overarching purpose of and need for the Lewistown PRMP and FEIS is to ensure public lands are managed in accordance with the FLPMA under the principles of multiple use and sustained yield. The complete exclusion of any resource use—recreation, livestock grazing, etc.—from the Planning Area does not meet the RMP's stated purpose and need. The range of alternatives aims to resolve conflicts among all resources and to meet the purpose and need and other goals.

An ecological/biocentric alternative was not specifically analyzed in the Lewistown Proposed RMP and FEIS because Alternative B contains goals and objectives that focus on environmental and social outcomes achieved by sustaining relatively unmodified physical landscapes, and natural and cultural resource values for current and future generations. The Final EIS also considered, but eliminated from detailed analysis, eliminating livestock grazing in the LFO Greater Sage-Grouse Proposed RMP

Amendment/Final EIS (see Lewistown PRMP/FEIS, pp. 2-3 to 2-4 for more detail). The BLM considered a reasonable range of alternatives in the Lewistown Proposed RMP and FEIS in full compliance with NEPA.

An alternative that included permanent grazing permit retirements was evaluated in the Lewistown PRMP/FEIS. The Lewistown Proposed RMP/FEIS incorporates greater sage-grouse decisions made in 2015: “. . . the RMP/EIS will incorporate, by reference . . . the ROD and Approved RMP Amendments for the Rocky Mountain Region, including the Greater Sage-Grouse Sub-Region of Lewistown” (pp. 1-7 and 2-31 of the PRMP/FEIS). The RMP amendment specifically addresses the relinquishment of grazing permits: “At the time a permittee or lessee voluntarily relinquishes a grazing permit or lease, the BLM will consider whether the public lands where that permitted use was authorized shall remain available for livestock grazing or be used for other resource management objectives, such as reserve common allotments or fire breaks. This does not apply to or impact grazing preference transfers, which are addressed in 43 CFR, 4110.2-3.”

The range of alternatives offers strategies for resolving deficiencies in existing management and addresses issues identified through internal assessment and public scoping.

Each alternative analyzed in detail allowed for varying degrees of protection, or use of resources, in the Planning Area. In some instances, the alternatives analyzed in detail included various considerations for eliminating or maximizing individual resource values or uses in specific areas, where conflicts existed. The BLM considered alternatives proposed by the public, including the alternative for evaluation of master leasing plans, as suggested in public scoping comments, and documented reasons for dismissing alternatives from detailed study in Section 2.8 (pp. 2-3 through 2-6).

For the 651,200 surface acres of the Lewistown BLM-administered lands, the BLM included the No Action Alternative and formulated three action alternatives. The BLM adjusted alternatives in response to public comments on the draft EIS and modified the Preferred Alternative. These examinations provide the responsible official with information that is useful for both fully understanding the alternatives and for informing the development of the Proposed RMP. The range of alternatives aims to resolve conflicts among all resources and to meet the purpose and need and other goals. These goals are consistent with NEPA regulations at 40 CFR 1501(c).

The BLM properly considered alternatives, including an ecological/biocentric alternative and an alternative that addressed relinquishment of grazing privileges, submitted by the public; consistent with 40 CFR 1502.14, the BLM properly analyzed a reasonable range of alternatives and explained alternative considered but dismissed from further analysis.

Accordingly, this protest is denied.

RECREATION AND VISITOR SERVICES (INCLUDING BACKCOUNTRY CONSERVATION AREAS)

Poertner, Ron (Missouri River Stewards)

Issue Text Excerpt: *The proposed Arrow Creek BCA fails to meet the purpose and criteria established by BLM Instruction Memo 2017—039 (sic)... The Arrow Creek BCA fails to meet both the "larger area of generally intact land, and "unfragmented criteria of IM 2017-039. The BCA is neither intact nor large.. The BLM fails to provide criteria or definition of "larger areas" that qualifies an area for management as a BCA. Because both tracts of the proposed Arrow Creek BCA are essentially bounded by private land, permanent access to the area is extremely limited and negates justification for creation of the BCA. Only two permanent access points exist.*

Issue Text Excerpt: *The proposed Arrow Creek BCA is situated in extremely rough, steep terrain that only the hardest of sportsmen are able to navigate. Because the proposed BCA is walk-in only, retrieval of big game*

species back to limited access points quickly becomes problematic and can result in only minimal parts of the game animal being retrieved. Clearly, the proposed Arrow Creek BCA does not represent a high quality hunting experience for the average or older age hunter; rather, only those in good physical shape will be able to navigate the steep terrain and enjoy a successful hunt. One should expect a significant number of hunters who plan to hunt to the area find the area untenable for a quality hunt because of access limitations, rough terrain, game retrieval challenges and overcrowding.

Issue Text Excerpt: Failure of BLM to comply with BLM Instruction Memorandum No. 2017-036 pertaining to BCA management, criteria and guidance. * Failure to provide a supplemental EIS and afford the public the opportunity to comment on BLM's decision to change the draft preferred alternatives to the revised proposed alternatives, which is an arbitrary and capricious decision and in violation of NEPA. * Failure to analyze impacts of the BCA decision on the human environment, including ancillary issues provided below in the Basis for Protest narrative.

Issue Text Excerpt: The proposed Arrow Creek BCA fails to comply with the provisions of 43 CFR 1610.1-2. For each geographic area under consideration for BCA status, the CFR requires BLM to define specific, measurable, out-come focused objectives that describe the desired habitat conditions for the recreationally-important fish and/or wildlife species. Additionally, BLM should consider and incorporate corresponding fish and wildlife objectives of the relevant state agencies. BLM failed to comply with these provisions. BLM is required by CFR to identify land tenure decisions (retention, acquisition, exchange) that support the backcountry conservation goals, objectives and designations. BLM failed to comply with this provision. BLM is required by CFR to identify indicators and intervals for monitoring and evaluation to ensure that the fish/wildlife and recreation objectives are being met. BLM failed to comply with this provision.

Issue Text Excerpt: BLM fails to consider or analyze the hard risks and cumulative effects of the proposed Arrow Creek BCA on the human environment and the impacts on local area emergency services and the search and rescue burdens placed on the local communities... BLM fails to consider or analyze the real prospect of an overwhelming surge of hunters on small tracks of public land like the proposed Arrow Creek BCA.

Issue Text Excerpt: The primary issues that comprise the basis for this protest include: Wrongful decision by State BLM Director to create the Arrow Creek Backcountry Conservation Area (BCA) because of the failure to present data and peer reviewed science used to qualify portions of the Arrow Creek drainage as a BCA.

Issue Text Excerpt: BLM fails to present any science or data that a 10-12 mile reach of Arrow Creek represents an important migration/movement corridor for game species.... BLM fails to present any science or data that recreationally-important species of fish exist in the 10-12 mile upper reach of Arrow Creek. It is very doubtful that few if any recreationally-important fish species exist because Arrow Creek frequently runs dry or becomes extremely low during late summer, making it a dubious conclusion that desirable fish species exist in any number ...The proposed BCA fails to meet the BLM's high-quality" recreation mandate for fishing.

Issue Text Excerpt: BLM's proposed decision to approve the Arrow Creek BCA by special interest groups is arbitrary and capricious because such a decision tans to give deference to private landowner's concerns and is devoid of any analysis of the impacts to area landowners and their communities. Area landowners will undoubtedly experience impacts with the Arrow Creek BCA in terms of trespass, expected federal leveraging of access through private land to the BCA and requests for assistance to retrieve stuck vehicles from primitive access roads, and taking of game on private land without permission because the majority of game animals will be found in close proximity to private grain fields and pasture lands along Arrow Creek

Issue Text Excerpt: *BLM fails to take into account that FWP is the sole manager for hunting and fishing in Montana, including hunting and fishing seasons, hunting harvest quotas, trapping criteria, etc. BLM presents no discussion on the interaction between FWP and the BLM or how a BCA designation could independently protect, conserve, and restore recreationally-important fish and wildlife habitat" when management of those species is relegated exclusively to FWP and the majority of these animal species in the proposed Arrow Creek BCA are found on private land, not BLM land. Again, BLM fails to address or analyze this important issue in the LRMP.*

Issue Text Excerpt: *One of the two pillars that must be considered in BCA decision making is whether the area contains a high quality recreational opportunity for fishing. Clearly, Arrow Creek is NOT a quality fishing stream.*

Issue Text Excerpt: *BLM fails to develop a supplemental EIS to enable the public to comment on BLM decision to change the draft preferred alternatives to the revised proposed alternative as required by NEPABecause the public was unaware of the revision to the preferred alternative, there was no opportunity for the public to comment on that revision, except to file a protest. BLM should have filed a supplemental EIS with the public as required by NEPA.*

Summary:

In the PRMP/FEIS, the BLM failed to:

- Comply with BLM Instruction Memorandum No. 2017-036 pertaining to BCA management, criteria, and guidance and with the provisions of 43 CFR 1610.1-2 that require the BLM to define specific, measurable, outcome-focused objectives that describe the desired habitat conditions for the recreationally important fish or wildlife species, or both
- Provide a supplemental EIS, specific to BCAs, and afford the public the opportunity to comment on the BLM's decision to change the draft preferred alternatives to the revised proposed alternatives, which is an arbitrary and capricious decision and in violation of NEPA
- Analyze impacts of the BCA decision on the human environment, including ancillary issues
- Address or analyze the relationship between Montana Department of Fish, Wildlife & Parks (MFWP) and the BLM specific to the management of wildlife

Response:

BLM Instruction Memorandum No. 2017-036 and 43 CFR 1610.1-2

BLM Instruction Memorandum 2017-036 directs the BLM to consider BCAs in land use planning based on public proposals in multiple land use planning efforts and to be consistent with multiple use and sustained yield. The BLM recognizes the value of protecting certain backcountry areas in order to preserve generally intact, undeveloped public lands that contain priority habitats for recreationally important wildlife species and that provide high-quality wildlife-dependent recreation opportunities afforded by those species. Instruction Memorandum (IM-2017-036) summarizes the criteria and process for considering management of these habitats and recreation opportunities through the application of land use planning components, including establishing BCAs, during the land use planning process.

Consistent with the criteria outlined in Instruction Memorandum 2017-036, the Arrow Creek BCA proposal was evaluated for backcountry conservation management and determined to meet the required criteria based on a number of factors, including, but not limited to, lack of development features, low road density, and recreationally important wildlife-dependent recreation opportunities afforded by big game hunting (Lewistown PRMP/FEIS, p. 4-151).

Appendix Q of the Lewistown PRMP/Final EIS (Sections Q.7 and Q.9) contain objectives and specific, measurable, outcome-focused targeted experiences and management actions to achieve those

objectives.

Supplemental EIS

“Supplementation” has a particular meaning in the NEPA context. In the case of a land use plan, a supplemental EIS is only required if there are new significant circumstances or information relevant to bearing on the Proposed Plan, or if there are changes outside of the alternatives already analyzed. BCAs were considered in detail within the spectrum of alternatives for the Lewistown PRMP.

NEPA requires agencies to prepare supplements to either a draft or final EIS if the agency makes substantial changes to the proposed action that are relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)). “Substantial changes” in the proposed action relevant to environmental concerns are changes that would result in significant effects outside the range of effects analyzed in the draft or final EIS (BLM Handbook H-1790-1, p. 29). A supplemental EIS may also be required when a new alternative is added that is outside the spectrum of alternatives already analyzed and not a variation of an alternative already analyzed, or a combination of alternatives already analyzed (BLM Handbook H-1790-1, p. 29).

The BLM has made no substantial changes to the Proposed Plan that are relevant to environmental concerns in the Lewistown RMP Planning Area. The BLM has determined that there are no new significant circumstances or information relevant to environmental concerns bearing on the Proposed Plan or its impacts. The BLM is not required to prepare a supplemental EIS.

Analysis of BCAs

Appendix Q of the Lewistown PRMP/FEIS includes appropriate use determinations and a description of goals, objectives, and actions for each geographic area under consideration as a BCA.

The Lewistown Proposed RMP further identifies lands within proposed BCAs as Category 2 under the land tenure section (p. 2-46 and corresponding map sections in Appendix A, Figures 2-55 through 2-57). Category 2 appropriately supports backcountry conservation goal(s), objective(s), and designation(s).

In accordance with Appendix C of BLM Manual 1613 Recreation and Visitor Services (1983), the BLM interdisciplinary team reviewed nominated BLM-administered lands in the Planning Area to determine whether new areas should be considered for designation as BCAs. The BLM identified distinct, primary recreation opportunities, as well as corresponding recreation management strategies. The range of alternatives offers strategies for resolving deficiencies in existing management and addresses issues identified through internal assessment and public scoping. The BLM gave careful consideration to comments specific to BCAs submitted by other government agencies, public organizations, state and tribal entities, and interested individuals (see the *Public Participation* section for additional details regarding public input). BCAs with a range of management actions were included within the spectrum of alternatives analyzed in the Lewistown Draft RMP that was released in May 2019.

The BLM has discretion to designate all, some, or none of the potential recreation management areas that were evaluated during the planning process. A comparison of estimated effects and trade-offs associated with the alternatives led to development and selection of the Proposed Plan (see Lewistown PRMP/FEIS Section 4.3.3).

Evaluation of Human and Wildlife Impacts, Including Interagency Coordination

CEQ regulations implementing NEPA require that agencies use “high-quality information” (40 CFR 1500.1(b)). NEPA regulations require the BLM to “insure 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). See comment above regarding *Best Available Science*.

The BLM consulted with, and collected and incorporated data from, other agencies and sources, including but not limited to the USFWS and Montana Fish, Wildlife and Parks, and relied on numerous data sources and scientific literature to support its description of baseline conditions (PRMP/FEIS, Chapter 3; AMS 2019) and impact analysis (PRMP/FEIS, Chapter 4). A list of information and literature used is contained in the references section found in Volume I beginning on page 4-233. The Lewistown PRMP considered criteria found in Instruction Manual 2017-036 and appropriately developed goals, objectives, designations, resource use determinations, land tenure decisions, and monitoring standards for each BCA.

As a result of these actions, the BLM gathered the necessary data essential to make a reasoned choice among the alternatives analyzed in detail in the PRMP/FEIS, and provided an adequate analysis that led to an adequate disclosure of the potential environmental consequences of the alternatives (PRMP/FEIS, Chapter 4). As a result, the BLM has taken a “hard look,” as required by NEPA, at the environmental consequences of the alternatives in the PRMP/FEIS to enable the decision-maker to make an informed decision. Finally, the BLM has made a reasonable effort to collect and analyze all available data.

Accordingly, this protest is denied.

SOCIAL AND ECONOMIC CONDITIONS

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: The BLM fails to consider the wide body of research revealing that counties adjacent to Wilderness areas and National Parks show better economic sustainability than counties heavily reliant upon resource extraction. The BLM's biased use of science violates NEPA.

Issue Text Excerpt: The FEIS fails to adequately analyze and disclose the direct, indirect, and cumulative economic impacts of management actions in violation of NEPA. The RMP direction fails to present the balanced approach FLPMA requires for consideration of economics considerations for resources and values other than resource extraction and exploitation. The FEIS does not consider best available economics research in violation of NEPA. The economics analysis is mostly about justifying management by expounding upon benefits to the local economy. The costs to U.S. taxpayers for the local focus benefits are not analyzed or disclosed. The externalized costs of the existing and subsequent environmental damage due to management actions and other human activities are also not considered.

Summary:

The BLM fails to consider contributions of WSAs and National Parks contribution to local economies. The FEIS fails to adequately analyze and disclose the direct, indirect, and cumulative economic impacts of management actions in violation of NEPA. The RMP direction fails to present the balanced approach FLPMA requires for consideration of economics considerations for resources and values other than resource extraction and exploitation. The FEIS does not consider best available economics research in violation of NEPA.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that 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 Lewistown PRMP/FEIS.

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. The baseline data provide the necessary basis to make informed land use plan-level decisions.

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 APD 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.

The analysis of socioeconomics for the Lewistown PRMP/FEIS (Section 4.5, pp. 4-206 to 4-224 and Appendix W) provides both qualitative and quantitative analyses of the Proposed Plan and Alternatives A through D on the conditions of the entire area of all counties that occur partially or wholly within the Lewistown Planning Area. The value of nonmarket and market goods and services was evaluated under each alternative. All impacts from actions were measured relative to activity levels in Alternative A. Impacts of management actions were measured and reported in dollars where possible. The indirect and induced impacts of a management action were assessed using an input-output model called IMPLAN Pro Software and Data that mimics the economic links between different sectors of the counties’ economies.

Nonmarket values and services are discussed in Section W.3.25 of the Lewistown PRMP/FEIS. The BLM will conduct subsequent project-specific NEPA analyses for projects proposed for implementation under the Lewistown PRMP. The subsequent NEPA analyses for project-specific actions will tier to the land-use planning analysis and evaluate project impacts at the appropriate site-specific level (40 CFR 1502.20 and 1508.28). Section 4.4.5 further describes effects common to all alternatives and cumulative effects from wilderness study areas within the Planning Area.

The BLM complied with NEPA’s requirement to analyze the environmental consequences on socioeconomics in the Lewistown PRMP/FEIS. Accordingly, this protest is denied.

SOIL, WATER, AND VEGETATION

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *The FEIS fails to analyze and disclose the direct, indirect, and cumulative effects of management actions on the spread of noxious weeds and other invasive species in violation of NEPA. The RMP does not present the balanced approach FLPMA requires for consideration of protecting native vegetation communities from invasive weeds.*

Issue Text Excerpt: *The FEIS (Chapters 3 and 4) fails to disclose the degree to which the productivity of the land and soil has been affected over the Lewistown Field Office due to livestock grazing and noxious weed infestations, and how that situation is expected to change in the coming years and decades. NEPA requires analysis of the impacts of past, ongoing, and foreseeable management actions. The FEIS (Chapters 3 and 4) does not analyze or disclose such cumulative impacts on soil productivity.*

Issue Text Excerpt: *The RMP’s vegetation direction fails to present the balanced approach FLPMA requires for*

consideration of protecting other resources and values. The FEIS does not consider best available science on natural processes maintaining vegetation diversity as compared to its claims of manipulating vegetation to achieve vague "resilience" goals and objectives, in violation of NEPA.

Summary:

In the PRMP/FEIS, the BLM failed to analyze and disclose the direct, indirect, and cumulative effects of management actions on the spread of noxious weeds and other invasive species in violation of NEPA. The PRMP/FEIS (Chapters 3 and 4) fails to disclose the degree to which the productivity of the land and soil has been affected in the Lewistown Field Office due to livestock grazing and noxious weed infestations, and how that situation is expected to change in the coming years and decades. The BLM also failed to analyze or disclose such cumulative impacts on soil productivity in the PRMP/FEIS (Chapters 3 and 4).

The RMP's vegetation direction fails to present the balanced approach FLPMA requires for consideration of protecting other resources and values. The FEIS does not consider best available science on natural processes maintaining vegetation diversity as compared with its claims of manipulating vegetation to achieve vague "resilience" goals and objectives, in violation of NEPA. See Livesock Grazing Section (p. 31-34) for additional details.

Response:

The BLM's Land Use Planning Handbook (Handbook 1601-1) provides guidance for developing the management decisions for soils, water, and vegetation that result in identification of desired outcomes. The BLM is further directed to "identify watersheds or specific soils that may need special protection from the standpoint of human health concerns, ecosystem health, or other public uses."

The Lewistown PRMP/FEIS includes a reasonable range of conservation strategies to meet soil, water, and vegetation desired outcomes. These include meeting or achieving standards and guidelines for rangeland health, maintaining beneficial uses of groundwater, and meeting state water quality standards. Goals, objectives, and actions for invasive species, as described on pages 2-15 and 2-16, include an analysis of impacts specific to soils, water, and vegetation (Sections 4.2.2, 4.2.3, and 4.2.4).

The Lewistown PRMP/FEIS incorporates relevant baseline information and studies about soils, water, and vegetation. NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that 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 Lewistown RMP. NEPA requires analysis of the impacts of past, ongoing, and foreseeable management actions.

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.

CEQ regulations implementing NEPA require that agencies use "high-quality information" (40 CFR 1500.1(b)). NEPA regulations require the BLM to "insure 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 EIS was prepared prior to changes in CEQ’s NEPA regulations. Under the regulations in effect at the time that the BLM prepared this EIS, the BLM must discuss the cumulative effects of the proposed action and the alternatives when preparing an EIS. The CEQ regulations in effect at the time define cumulative effects as “. . . the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions” (40 CFR 1508.7).

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. The baseline data provide the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. Appendix W: Analysis Assumptions and Cumulative Effects Scenario (Volume III) provides a list of past, present, and reasonably foreseeable projects, plans, or actions that comprise the cumulative effects scenario. Table W.2 (pp. W-9 to W-14) displays projects and activities identified as having the greatest likelihood to generate potential cumulative effects on vegetation, water, and soils when added to RMP alternatives.

Accordingly, this protest is denied.

TRAVEL, TRANSPORTATION, AND ACCESS

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *The RMP allocates BLM-managed lands in the planning area as open to motorized travel, closed to motorized travel, or limited to motorized travel. However this fails to comply with Executive Orders 11644 and 11989. The Executive Orders require the BLM to locate areas and trails to: minimize damage to soil, watershed, vegetation, or other resources of the public lands; minimize harassment of wildlife or significant disruption of wildlife habitats; minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.*

Issue Text Excerpt: *The RMP and FEIS punt the analysis of Field Office-wide travel planning, to "be analyzed in the travel management process." Note to BLM: since you state intent to conduct analysis of impacts of specific travel routes in some theoretical, non-mandated Field Office-wide "travel management process"2 then the time to do so is now, during this Field Office-wide land management planning process. The BLM is obligated to undertake this analysis at the RMP level. In failing to do so, it violates Executive Orders 11644 and 11989 FLPMA and NEPA.*

Issue Text Excerpt: *The FEIS fails to analyze and disclose the direct, indirect, and cumulative effects of motorized access facilities on wildlife, aquatic and riparian dependent species in violation of NEPA. The FEIS fails to demonstrate consistency with Executive Orders 11644 and 11989. The FEIS fails to consider the economic implications of maintaining roads and motorized trails, in violation of NEPA. The RMP does not present the balanced approach FLPMA requires for consideration of the ecological and social values impacted by motorized travel. The FEIS does not consider best available science on the impacts of motorized travel on other resource values and it fails to take a hard look on the adequacy of Best Management Practices and other design features and mitigations.*

Summary:

The Lewistown PRMP/FEIS violates Executive Orders 11644 and 11989 because it failed to incorporate step-down travel management planning. The FEIS fails to consider the economic implications of maintaining roads and motorized trails, in violation of NEPA. The RMP does not present the balanced approach FLPMA requires for consideration of the ecological and social values affected by motorized travel. The FEIS does not consider best available science on the impacts of motorized travel on other resource values, and it fails to take a hard look at the adequacy of best management practices, other design features, and mitigations.

Response:

BLM land use planning requirements are established by Sections 201 and 202 of FLPMA (43 United States Code 1711–1712) and the regulations in 43 CFR 1600. As noted previously, land use planning-level decisions are broad in scope and guide future land management implementation actions; land use plan decisions establish goals and objectives for resource management (desired outcomes) and the measures needed to achieve these goals and objectives (management actions and allowable uses). The BLM’s travel management guidance is provided in BLM Manual MS-1626 Travel and Transportation Management. Section 1.3, Authority in MS-1626 includes a list of major legal authorities relevant to the BLM land use and implementation planning processes relative to travel and transportation management. Executive Orders 11644 and 11989 are both included under the authorities, providing policies and procedures to ensure the control of off-road vehicle use to protect public lands. These authorities will help guide the future site-specific-level travel management planning.

As defined in the BLM Land Use Planning Handbook (H-1601-1), Appendix C, Section II, D. Comprehensive Trails and Travel Management (p. 17), land use plan decisions for travel management direct the BLM to “delineate travel management areas and designate off-highway vehicle management areas” (p. 17). The RMP-level decisions include motorized and nonmotorized allocations for an area—open, limited, and closed. These allocations are in accordance with the RMP’s purpose and need in Chapter 1, and travel, transportation, and access goals and objectives as described in Chapter 2. Specific route designations for off-highway vehicle and nonmotorized use will be analyzed and identified during step-down travel management planning at the site-specific level within the open, limited, and closed areas (see FEIS Volume 1, Chapter 2, pp. 2-41 and 2-42).

Also, see discussions under *Best Available Science* and the *General* sections for a complete discussion of FLPMA, NEPA, and best available science.

Accordingly, this protest is denied.

WILD AND SCENIC RIVERS**Bertram, Aubrey (Montana Wilderness Association)**

Issue Text Excerpt: *Conservation Groups note that many rivers are disqualified because of 'other management' schemes available to the BLM when those discretionary designations are all withdrawn in the preferred alternative. For example, Collar Gulch is excluded in part because the analysis asserts that the existing ACEC would adequately protect the values, but the preferred alternative proposes to do away with the ACEC. Likewise, the agency seems to assert that managing the eligible lands Sacagawea Creek flows through for their wilderness character (ie Horse Camp Trail, West Crooked Creek, and Chain Buttes) will protect the river's values, but in four of the five alternatives, wilderness character is not adequately managed for. The agency cannot simultaneously propose to do away with protections in one part of its analysis while also relying on those protections for other decisions. This is tantamount to doublespeak, profoundly misleading, and is also arbitrary, capricious, and an abuse of agency discretion.*

Issue Text Excerpt: *The agency's reliance on the CMAs along the Rocky Mountain Front to disqualify eligible river segments is confounding. In its analyses for rivers within the CMA, the agency consistently concludes that WSR suitability recommendation and designation would comport with the values and management of the CMA, and even enhance the scenic and ecological values of the landscape, but yet uses CMA management as a concluding reason to not recommend any river for designation. It's clear that in many cases with regards to WSR values, the agency's analysis does not support its conclusion. This amounts to an utter failure to take the required hard look, and accurately analyze the direct, indirect, and cumulative impacts of the agency's proposed action.*

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *The RMP fails to maintain Wild & Scenic river characteristics in accord with best available science and in violation of NEPA, and does not present a balanced approach to protecting the resource values best represented by Wild & Scenic rivers and streams, characteristics required by FLPMA. The BLM's evaluation process is not consistent with the national policy envisioned in the Wild and Scenic Rivers Act. The RMP bias and imbalance toward resource extraction is reflected in the fact that under the RMP all river segments are considered unsuitable for Wild & Scenic status. The RMP does not prohibit uses in Wild and Scenic Rivers, potential Wild and Scenic Rivers, and their river corridors that are nonconforming under the Wild and Scenic Rivers Act, in violation of FLPMA.*

Summary:

The Lewistown Proposed RMP and FEIS (BLM 2020) fails to maintain wild and scenic river characteristics in accordance with best available science and in violation of NEPA; it does not present a balanced approach to protecting the resource values best represented by wild and scenic rivers and streams, as required by FLPMA. The BLM's evaluation process is not consistent with Wild and Scenic Rivers Act policy.

Response:

To the extent possible under existing legal authorities, the BLM's policy goal for eligible and suitable rivers is to manage their free-flowing condition, water quality, tentative classification, and any outstandingly remarkable values (ORVs) to assure a decision on suitability can be made for eligible rivers; or in the case of suitable rivers, until Congress designates the river or releases it for other uses (BLM Manual Section 6400.3.5). During the land use planning process, the BLM assesses all eligible river segments and determines which are suitable or non-suitable for inclusion in the National Wild and Scenic Rivers System (BLM Handbook H-1601-1, Appendix C, p. 27).

In the Lewistown PRMP/FEIS, the BLM identified all segments eligible for inclusion in the National Wild and Scenic Rivers System, and determined which of those eligible segments are suitable for inclusion in the National Wild and Scenic Rivers System (see FEIS, p. 2-53 and Appendix V). In determining the suitability of the segments, the BLM applied the 13 suitability criteria factors identified in BLM Manual 6400. The BLM interdisciplinary team considered data from other agencies and the public, as well as input provided by cooperating agencies when determining which sources would be effective as defining criteria.

In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare, or exemplary feature that is exceptional at a comparative regional or national scale (BLM Manual Section 6400.3.1.D.1). The determination of whether an area contains an ORV is a professional judgment on the part of the agency's study team (USDI-USDA Final Revised Guidelines for Eligibility, Classification, and Management of River Areas, 47 *Federal Register* 39457; BLM Manual Section 6400.3.1.D).

The BLM identified ORVs for wild and scenic rivers in the Lewistown Proposed RMP and FEIS (BLM 2020) through a study process to determine what values or characteristics make the wild and scenic rivers worthy of special protection.

The BLM documented the study process for identifying ORVs and the rationale for ORV identifications in Section 2.2.2 of the Lewistown Proposed RMP and FEIS (see Volume III, Appendix V, Section 2.2.2 and Table 2-2). Scenic, recreational, geological, fish, wildlife, historic, and cultural ORVs are addressed to varying degrees in each alternative in the Lewistown PRMP. Consideration of these values is achieved through evaluations of a variety of management prescriptions, such as wild and scenic river suitability, ACEC or recreation designations, visual resource management, wilderness characteristics, stipulations and RDFs, and ROW determinations. For example, the Lewistown PRMP contains RDFs (Appendix F) and stipulations (Appendix L) to protect floodplains, riparian and wetland values, fisheries, wildlife, and scenery regardless of wild and scenic river suitability.

The Lewistown PRMP/FEIS appropriately identifies ORVs and follows the process for evaluating stream segments consistent with policy. Accordingly, this protest is denied.

WILDFIRE ECOLOGY AND MANAGEMENT

Juel, Jeffrey (Alliance for the Wild Rockies)

Issue Text Excerpt: *The RMP (Chapter 2 does not provide management direction effectively reducing management incentives to authorize as much fire suppression as available resources could allow. So the FEIS (Chapters 3 and 4) fails to acknowledge what would really happen-perpetual "fuel treatment" via industrial logging and "fuel treatments" to mitigate perpetual fire suppression.*

Issue Text Excerpt: *The FEIS fails to analyze and disclose the direct, indirect, and cumulative effects of BLM fire suppression policies, in violation of NEPA. The FEIS fails to consider best available science on fire and fire ecology, in violation of NEPA. The RMP fails to include direction representing a science-informed comprehension of the natural role of fire on the landscape, in violation of FLPMA.*

Summary:

In the PRMP/FEIS, the BLM failed to analyze and disclose the direct, indirect, and cumulative effects of BLM fire suppression policies, in violation of NEPA. Additionally, the BLM failed to consider best available science on fire and fire ecology in the PRMP/FEIS, in violation of NEPA. Lastly, the BLM failed to include direction representing a science-informed comprehension of the natural role of fire on the landscape, in violation of FLPMA.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15), and that 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 Lewiston PRMP/FEIS.

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.

CEQ regulations implementing NEPA require that agencies use "high-quality information" (40 CFR 1500.1(b)). NEPA regulations require the BLM to "insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements" (40 CFR 1502.24).

The BLM developed the Lewistown PRMP/FEIS applying the principles of "best available" data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012). The Lewistown PRMP also

properly applied CEQ regulations (40 CFR 1500.1(b)). Please see response, above, in section heading *Best Available Science*.

The Lewistown PRMP/FEIS (pp. 2-22 to 2-24) contains management actions that address the BLM's response to wildland fire through fire management unit categories using such factors as fuel types, vegetation condition class (VCC), and current levels of development and infrastructure. Goals, objectives, and management actions for site-specific fuel treatments are described in the woodland products (2-49, 2-50, 2-51) and the vegetation sections (Ponderosa Pine Breaks/Badlands p. 2-1). Future treatments would be designed to reduce the occurrence of severe wildfires by implementing selective treatments that mimic natural disturbance regimes to enhance resiliency to wildfire. Treatments would be focused in areas to maintain VCC I classifications and to improve areas of high and moderate departure (VCC 2 and 3). The Lewistown PRMP/FEIS analyzes the relationship of fuel treatments, fuel loading, and ecological condition from proposed management actions in Appendix W (pp. W-52 to W-54) and in Sections 4.3.8 and 4.2.4.

The Lewistown PRMP/FEIS describes the ecological condition of forest and woodland resources in relation to wildland fire (Revised AMS 2019 pp. 83–88). It includes goals, objectives, and actions as described above to adequately address management activities as they relate to fuels loading and the potential for wildland fire and related suppression activities. Considering this, the Lewistown PRMP/FEIS did analyze and disclose the direct, indirect, and cumulative effects of fuel treatments, wildland fire, and suppression activities. Accordingly, this protest is denied.