



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

**Rock Springs Field Office
Proposed Resource Management
Plan and Final Environmental
Impact Statement**

December 19, 2024

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Acronyms

Term	Definition
ACEC	Area of Critical Environmental Concern
ADA	Americans with Disabilities Act
AIRFA	American Indian Religious Freedom Act
AML	Appropriate Management Level
AMS	Analysis of the Management Situation
APA	Administrative Procedures Act
APD	Application for Permit to Drill
APLIC	Avian Power Line Interaction Committee
APP	Avian Protection Plan
ARPA	Archaeological Resources Protection Act
ATV	all-terrain vehicle
AUM	animal unit month
BAEA	bald eagle
BCC	Bridger Coal Company
BGEPA	Bald and Golden Eagle Protection Act
BLM	Bureau of Land Management
BLM-WY	Bureau of Land Management Wyoming
BUOW	burrowing owl
Bureau	Bureau of Land Management
CAA	Clean Air Act
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
COA	condition of approval
CSU	controlled surface use
DEIS	Draft Environmental Impact Statement
DEQ	Department of Environmental Quality
EIS	Environmental Impact Statement
EMA	Essential Minerals Association
EO	Executive Order
EPA	U.S. Environmental Protection Agency
ESA	Endangered Species Act
ETP	Eagle Take Permit
FEHA	ferruginous hawk
FEIS	Final Environmental Impact Statement
FERC	Federal Energy Regulatory Commission
FLPMA	Federal Land Policy and Management Act
FO	Field Office
FOIA	Freedom of Information Act Request
GHG	greenhouse gas
GIS	geographic information system
GLM	Greater Little Mountain
GOEA	golden eagle
GPS	global positioning system
GRSG	Greater Sage-Grouse
HA	herd area
HMA	Herd Management Area
HPS	High Potential Segment
IBLA	Interior Board of Land Appeals

IM	Instruction Memorandum
IR	Integrated 305(b) and 303(d) Report
KRCA	Known Recoverable Coal Area
LFO	Lander Field Office
LWC	lands with wilderness characteristics
MA	Management Action
MBTA	Migratory Bird Treaty Act
MLA	Mineral Leasing Act of 1920
NAAQS	National Ambient Air Quality Standards
NEI	National Emission Inventory
NEPA	National Environmental Policy Act
NERC	North American Electric Reliability Corporation
NHPA	National Historic Preservation Act
NHT	National Historic Trail
NMA	National Mining Association
NO_x	nitrogen oxides
NSO	no surface occupancy
NTS	National Trails System
NTSA	National Trails System Act
NVUM	National Visitor Use Monitoring
O&M	operations and maintenance
OHV	off-highway vehicle
ORV	Off-Road Vehicle
OSTS amendment	The Approved Land Use Plan Amendments for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the Bureau of Land Management in Colorado, Utah, and Wyoming
OSV	over-sand vehicle
PDF	portable document format
PHMA	Priority Habitat Management Area
PRMP	Proposed Resource Management Plan
R&I	relevance and importance
R.S.	Revised Statute
RFD	reasonably foreseeable development
RMP	Resource Management Plan
RMPA	Resource Management Plan Amendment
ROD	Record of Decision
ROW	right-of-way
RSFO	Rock Springs Field Office
SEIS	Supplemental Environmental Impact Statement
SO	Secretarial Order
SPUT	special purpose utility
SRMA	Special Recreation Management Area
SUWA	Southern Utah Wilderness Alliance
SWHA	Swainson's hawk
TGA	Taylor Grazing Act
TMDL	Total Maximum Daily Load
tpy	tons per year
TWS	The Wilderness Society
U.S.C.	U.S. Code
USFWS	U.S. Fish and Wildlife Service
USGS	United States Geological Survey

VOC	volatile organic compound
VRI	visual resource inventory
VRM	Visual Resource Management
WCCA	Wyoming County Commissioners Association
WDA	Wyoming Department of Agriculture
WDEQ	Wyoming Department of Environmental Quality
WGFD	Wyoming Game and Fish Department
WSA	Wilderness Study Area
WOGCC	Wyoming Oil and Gas Conservation Commission
WQD	Water Quality Division
WSA	Wilderness Study Area
WSGA	Wyoming Stock Growers Association
WYPDES	Wyoming Pollutant Discharge Elimination System

Introduction

The Bureau of Land Management (BLM) Rock Springs Field Office (RSFO) released the Rock Springs Field Office Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS) on August 23, 2024. The BLM received 113 unique protest letter submissions during the subsequent 30-day protest period, which ended on September 23, 2024.

The planning regulations at 43 Code of Federal Regulations (CFR) 1610.5-2 outline the requirements for filing a valid protest. The BLM evaluated all protest letters to determine which protest letters were complete and timely, and which persons have standing to protest. Twenty-four letters were complete and timely but were dismissed because the protesting parties who submitted the letters did not have standing to protest. The remaining 89 letters were complete and timely and were from parties who had standing to protest. Of those, 27 letters contained valid protest issues. The BLM documents the responses to the valid protest issues in this protest resolution report. The protest decision is recorded in writing along with the reasons for the decision in this protest resolution report.

After careful review of the report by the BLM's Assistant Director for Resources and Planning, the Assistant Director concluded that the BLM Wyoming State Director followed the applicable laws, regulations, and policies and considered all relevant resource information and public input. The Assistant Director addressed the protests and issued a Protest Resolution Report to protesting parties and posted the report on the BLM's website; no changes to the RSFO PRMP/FEIS were necessary. The decision was sent to the protesting parties by certified mail, return receipt requested. Consistent with the BLM Delegation of Authority Manual (MS-1203 Delegation of Authority), resolution of protests is delegated to the BLM Assistant Director for Resources and Planning, whose decision on the protest is the final decision of the U.S. Department of the Interior (43 CFR 1610.5-2(b)).

The report is divided into sections each with a topic heading, excerpts from individual protest letters, a summary statement of the issues or concerns raised by the protesting parties, and the BLM's response to the protests.

Protesting Party Index

Letter Number	Protestor	Organization	Determination
PP-WY-RS-EIS-24-01	Eric Dalton		Dismissed - Comments Only
PP-WY-RS-EIS-24-02	Juan Laden		Dismissed - Comments Only
PP-WY-RS-EIS-24-03	Brian Kwiatkowski		Dismissed - Comments Only
PP-WY-RS-EIS-24-04	Mikey Castillon		Dismissed - No Standing
PP-WY-RS-EIS-24-05	Sandra Walters		Dismissed - Comments Only
PP-WY-RS-EIS-24-06	Lee Ann Inberg-Schuff		Dismissed - Comments Only
PP-WY-RS-EIS-24-07	Sam Lightner		Dismissed - No Standing
PP-WY-RS-EIS-24-08	John Isaacson		Dismissed - Comments Only
PP-WY-RS-EIS-24-09	Joshua Coursey	Muley Fanatic Foundation	Denied
PP-WY-RS-EIS-24-10	Robert DeNike		Dismissed - Comments Only
PP-WY-RS-EIS-24-11	Aubrey Edwards		Dismissed - No Standing
PP-WY-RS-EIS-24-12	Anne Millbrooke		Dismissed - Comments Only
PP-WY-RS-EIS-24-13	Arne Johason		Dismissed - Comments Only
PP-WY-RS-EIS-24-14	Sandra Walters		Dismissed - No Standing
PP-WY-RS-EIS-24-15	Elena Tillman		Dismissed - Comments Only
PP-WY-RS-EIS-24-16	Claire Cutler	Continental Divide Trail Coalition	Dismissed - No Standing
	Teresa Ana Martinez	Continental Divide Trail Coalition	
PP-WY-RS-EIS-24-17	Andrew Salter		Denied
PP-WY-RS-EIS-24-18	David Patenaude		Dismissed - No Standing
PP-WY-RS-EIS-24-19	Randall Rees		Dismissed - No Standing
PP-WY-RS-EIS-24-20	Sarah Frary		Dismissed - No Standing
PP-WY-RS-EIS-24-21	Ronald Bassett		Dismissed - No Standing
PP-WY-RS-EIS-24-22	June Bassett		Dismissed - Comments Only
PP-WY-RS-EIS-24-23	Suzie Taylor		Dismissed - No Standing

Letter Number	Protestor	Organization	Determination
PP-WY-RS-EIS-24-24	Barbara Aronowitz		Dismissed - Comments Only
PP-WY-RS-EIS-24-25	William Hill		Dismissed - Comments Only
PP-WY-RS-EIS-24-26	Josh Metten	Theodore Roosevelt Conservation Partnership	Dismissed - Comments Only
PP-WY-RS-EIS-24-27	Josh Metten	Theodore Roosevelt Conservation Partnership	Dismissed - Comments Only
	Joshua Coursey	Muley Fanatic Foundation	
	Joy Bannon	Wyoming Wildlife Federation	
	Leslie Steen	Trout Unlimited	
	Craig Thompson		
	Monte Morlock	United Steelworkers Local 13214	
	Steve Martin	Bowhunters of Wyoming	
PP-WY-RS-EIS-24-28	Ross Breedlove	Wyoming Department of Environmental Quality	Denied
	Todd Parfitt	Wyoming Department of Environmental Quality	
PP-WY-RS-EIS-24-29	Tom Kropatsch	Wyoming Oil and Gas Conservation Commission	Denied
PP-WY-RS-EIS-24-30	Justin Williams	Wyoming Department of Agriculture, State of Wyoming	Denied
PP-WY-RS-EIS-24-31	Triston Rice	Wyoming County Commissioners Association	Denied
PP-WY-RS-EIS-24-32	Sue Lewis		Dismissed - Comments Only
PP-WY-RS-EIS-24-33	Joy Burk		Dismissed - Comments Only
PP-WY-RS-EIS-24-34	Angelina and George Pryich		Dismissed - Comments Only
PP-WY-RS-EIS-24-35	Jay and Teresa Getz		Dismissed - No Standing
PP-WY-RS-EIS-24-36	Kathrin Ritterbush		Dismissed - No Standing
PP-WY-RS-EIS-24-37	Pam Feeley		Dismissed - Comments Only
PP-WY-RS-EIS-24-38	Elizabeth Campbell		Dismissed - No Standing
PP-WY-RS-EIS-24-39	Maury Jones		Dismissed - Comments Only
PP-WY-RS-EIS-24-40	Samuel Sommers		Dismissed - Comments Only
PP-WY-RS-EIS-24-41	Carol Perkins		Dismissed - No Standing
PP-WY-RS-EIS-24-42	Jake Jack		Dismissed - No Standing
PP-WY-RS-EIS-24-43	Linda MacDonald		Dismissed - No Standing

Letter Number	Protestor	Organization	Determination
PP-WY-RS-EIS-24-44	Gregory Hoffman		Dismissed - No Standing
PP-WY-RS-EIS-24-45	Bob Skaggs		Dismissed - Comments Only
PP-WY-RS-EIS-24-46	Nancee Meleski		Dismissed - Comments Only
PP-WY-RS-EIS-24-47	James R. Menge		Dismissed - No Standing
PP-WY-RS-EIS-24-48	Jonathan Ratner	Sage Steppe Wild	Dismissed - Comments Only
PP-WY-RS-EIS-24-49	Clifford Rockhold		Dismissed - No Standing
PP-WY-RS-EIS-24-50	Marilyn Howell		Dismissed - No Standing
PP-WY-RS-EIS-24-51	Sara Diemoz		Dismissed - No Standing
PP-WY-RS-EIS-24-52	Marlene O'Leary		Dismissed - No Standing
PP-WY-RS-EIS-24-53	Dawn Koch		Dismissed - Comments Only
PP-WY-RS-EIS-24-54	Jim Magagna	Wyoming Stock Growers Association	Dismissed - Comments Only
PP-WY-RS-EIS-24-55	Deb Wolfley		Dismissed - No Standing
PP-WY-RS-EIS-24-56	Renee Dana		Dismissed - Comments Only
PP-WY-RS-EIS-24-57	Dillon Eastman		Dismissed - Comments Only
PP-WY-RS-EIS-24-58	Joy Burk		Dismissed - Comments Only
PP-WY-RS-EIS-24-59	Jay Denny		Dismissed - No Standing
PP-WY-RS-EIS-24-60	Emma Jones		Dismissed - Comments Only
PP-WY-RS-EIS-24-61	Eric Young		Dismissed - Comments Only
PP-WY-RS-EIS-24-62	Jack Smith		Denied
PP-WY-RS-EIS-24-63	Kim Bright	Wapika Ranch, LLC	Dismissed - Comments Only
PP-WY-RS-EIS-24-64	Marilyn Dahle		Dismissed - Comments Only
	Orson Lee Schwab		
PP-WY-RS-EIS-24-65	Marilyn Dahle-Schwab		Dismissed - Comments Only

Letter Number	Protestor	Organization	Determination
PP-WY-RS-EIS-24-66	CarlyAnn Carruthers	Wyoming State Parks and Cultural Resources	Dismissed - Comments Only
	Chris Floyd	Wyoming State Parks and Cultural Resources	
	Forrest Kamminga	Wyoming State Trails Program	
	Patrick Harrington	Wyoming Office of Outdoor Recreation	
PP-WY-RS-EIS-24-67	David Elliott		Dismissed - Comments Only
PP-WY-RS-EIS-24-68	Lisa Vis		Dismissed - Comments Only
PP-WY-RS-EIS-24-69	TaLise Hansen	Wyoming Legislature Select Committee on Federal Natural Resource Management	Denied
	John Kolb	Wyoming Legislature Select Committee on Federal Natural Resource Management	
	Scott Heiner	Wyoming Legislature Select Committee on Federal Natural Resource Management	
PP-WY-RS-EIS-24-70	Mark Passen		Dismissed - Comments Only
PP-WY-RS-EIS-24-71	Travis Deti	Wyoming Mining Association	Dismissed - Comments Only
PP-WY-RS-EIS-24-72	Nat Paterson	Wyoming Wildlife Federation	Dismissed - Comments Only
PP-WY-RS-EIS-24-73	Chris Greissing	Essential Minerals Association	Dismissed - Comments Only
PP-WY-RS-EIS-24-74	Will Alexander		Dismissed - Comments Only
PP-WY-RS-EIS-24-75	Keaton West	Sweetwater County Board of County Commissioners	Denied
PP-WY-RS-EIS-24-76	Abbey Benesh	American Wild Horse Conservation	Dismissed - Comments Only
PP-WY-RS-EIS-24-77	Lori Moncecchi		Dismissed - Comments Only
PP-WY-RS-EIS-24-78	Leanne Smith		Dismissed - Comments Only
	Rodney Smith		
PP-WY-RS-EIS-24-79	Brady Rasmussen	Wexpro Company	Dismissed - Comments Only
	Judd Cook	Enbridge Gas Utah, Wyoming and Idaho	
PP-WY-RS-EIS-24-80	Jeness Saxton	Sublette County, Wyoming	Denied
	Sam White	Sublette County, Wyoming	
PP-WY-RS-EIS-24-81	John Lucas	Genesis Alkali	Dismissed - Comments Only
PP-WY-RS-EIS-24-82	Mark Kot		Dismissed - Comments Only
PP-WY-RS-EIS-24-83	Kelly Carpenter	Wyoming Farm Bureau Federation	Dismissed - Comments Only

Letter Number	Protestor	Organization	Determination
PP-WY-RS-EIS-24-84	Colin McKee	Petroleum Association of Wyoming and Western Energy Alliance	Denied
	Pete Obermueller	Petroleum Association of Wyoming and Western Energy Alliance	
	Kathleen Sgamma	Petroleum Association of Wyoming and Western Energy Alliance	
PP-WY-RS-EIS-24-85	Duane Taylor		Dismissed - Comments Only
PP-WY-RS-EIS-24-86	Angi Bruce	Wyoming Game and Fish Department	Dismissed - Comments Only
PP-WY-RS-EIS-24-87	Mimi and Tyson Argyle	Argyle Cattle Co LLC	Dismissed - Comments Only
PP-WY-RS-EIS-24-88	Kaycee Prevedel		Denied
PP-WY-RS-EIS-24-89	Eric South	Coalition of Local Governments - Wyoming	Denied
PP-WY-RS-EIS-24-90	Cory Ott		Dismissed - Comments Only
PP-WY-RS-EIS-24-91	Kelly Bott	PureWest	Denied
PP-WY-RS-EIS-24-92	Andrew Schneider		Denied
PP-WY-RS-EIS-24-93	Ken Moon	Little Sandy Grazing Association	Denied
PP-WY-RS-EIS-24-94	Bart Argyle	Argyle Ranch Inc	Dismissed - Comments Only
PP-WY-RS-EIS-24-95	Corey Roberts	Board of Lincoln County Commissioners	Denied
	Stephen Allen	Board of Lincoln County Commissioners	
	Kent Connelly	Board of Lincoln County Commissioners	
	Teri Bowers	Board of Lincoln County Commissioners	
	Jerry Hansen	Board of Lincoln County Commissioners	
PP-WY-RS-EIS-24-96	Robert Welsh	Mountain States Legal Foundation	Denied
PP-WY-RS-EIS-24-97	Jacqueline Shinker		Dismissed - Comments Only
PP-WY-RS-EIS-24-98	Dagny Signorelli	Western Watersheds Project	Denied
	Sara Kendall	Western Organization of Resource Councils	
PP-WY-RS-EIS-24-99	Megan Stanfill	Alliance for Historic Wyoming	Denied
	Tom Rea	Oregon-California Trails Association	

Letter Number	Protestor	Organization	Determination
PP-WY-RS-EIS-24-100	Julia Stuble	The Wilderness Society	Denied
	Alec Underwood	Wyoming Outdoor Council	
	Kara Matsumoto	Conservation Lands Foundation	
	Lauren Marsh	Wyoming Wilderness Association	
	Rob Joyce	Sierra Club Wyoming Chapter	
PP-WY-RS-EIS-24-101	Joy Burk		Dismissed - Comments Only
PP-WY-RS-EIS-24-102	Fred Devish	Crook County Board of Commissioners	Denied
	Patrick Wade	Niobrara County Board of Commissioners	
	Del Shelstad	Campbell County Board of Commissioners	
	Jim Willox	Converse County Board of Commissioners	
	Don Taylor	Weston County Board of Commissioners	
PP-WY-RS-EIS-24-103	Megan Stanfill	Alliance for Historic Wyoming	Denied
PP-WY-RS-EIS-24-104	John Hutchings	PacifiCorp dba Rocky Mountain Power	Denied
	Sherry Liguori	PacifiCorp dba Rocky Mountain Power	
PP-WY-RS-EIS-24-105	Debra Park		Denied
PP-WY-RS-EIS-24-106	Brad Layton		Dismissed - Comments Only
PP-WY-RS-EIS-24-107	Christopher Rynders		Dismissed - Comments Only
PP-WY-RS-EIS-24-108	Don DeLaune		Dismissed - Comments Only
	Karen Cook		
PP-WY-RS-EIS-24-109	Peter Arambel	Arambel Ranches et al.	Dismissed - Comments Only
PP-WY-RS-EIS-24-110	Katie Sweeney	National Mining Association	Denied
	Katie Mills	National Mining Association	
PP-WY-RS-EIS-24-111	Simone Griffin	BlueRibbon Coalition	Denied
	Ben Burr	BlueRibbon Coalition	
PP-WY-RS-EIS-24-112	Anjanette McConnell		Dismissed - Comments Only
PP-WY-RS-EIS-24-113	Becky and Donald Mix		Dismissed - Comments Only

Secretarial Order 3403: Tribal Co-Stewardship

Andrew Schneider

Issue Excerpt Text: I'm disappointed that the proposal doesn't include language supporting Tribal co-stewardship for culturally significant sites. Embracing co-stewardship with Tribal Nations presents a vital opportunity to fulfill the trust responsibility to tribes. By collaborating and valuing Indigenous knowledge alongside Western science, we can create a more equitable and effective approach to managing our public lands. The director's decision does not honor our commitments under SO 3403—Joint Secretarial Order on Fulfilling the Trust Responsibility to Tribes.

Summary:

Protestors claimed that the BLM violated Secretarial Order (SO) 3403 by failing to include language supporting co-stewardship for culturally significant sites.

Response:

The BLM's tribal consultation efforts are governed by a number of authorities. Section 101(d)(6) of the National Historic Preservation Act requires that "in carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties" of traditional religious and cultural importance to be eligible for inclusion on the National Register of Historic Places. It is BLM policy under the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA) analysis that accompanies to provide "an early opportunity for tribes to help inform BLM decisions with the potential to affect their interests through both formal consultation and serving as cooperating agencies" (BLM Handbook H-1780-1, p. IV-2).

SO 3403 focuses on fulfilling the trust responsibility to Indian Tribes in the stewardship of Federal lands and waters and promotes collaborative and cooperative agreements between the U.S. Department of Interior, the U.S. Department of Agriculture, and Tribal Nations for the co-stewardship of Federal lands, waters, and wildlife.

The BLM has consulted with Tribal governments throughout the development of the RSFO PRMP/FEIS. The BLM's consultation with tribal governments is summarized in Section 5.1.3 (RSFO PRMP/FEIS p. 5-5) and in this section the BLM acknowledges the Tribal sovereignty and the trust responsibility that the Federal government and its agencies have with Native American Tribes. As described in this section, the eight Tribes listed in Section 5.3 (RSFO PRMP/FEIS p. 5-8) were invited to consult on the planning effort and the BLM kept the Tribes apprised of any progress and relevant information regarding the Resource Management Plan (RMP) throughout the planning process. The BLM will continue to consult with appropriate Tribal Nations throughout implementation of projects that fall under the management framework of the RSFO PRMP/FEIS during which co-stewardship opportunities may arise.

The BLM adequately consulted with Tribal governments regarding the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

Access Restrictions

PacifiCorp dba Rocky Mountain Power

John Hutchings

Issue Excerpt Text: BLM selected Alternative D for MA #4407 in the FEIS. This alternative includes a requirement to conduct pre-construction surveys for proposed projects between February 1 through August 15. Similarly, BLM selected Alternative D for MA #4427 in the Proposed RMP, which includes a seasonal closure from February 1 to July 31 around active and historic nest sites. The selected alternative includes language stating that “exceptions will be granted for administrative use.” PacifiCorp “administrative use” includes activities associated with the safe operations and maintenance of the electric grid and; therefore, should be granted an exception from the pre-construction surveys and closure period. PacifiCorp maintains that this is not an effective MA if we anticipate requiring routine exceptions for our activities that fall under “administrative use”. Processing exceptions for these closures will be time intensive for both the utility and the BLM, especially since PacifiCorp may require urgent approvals to ensure safety of our customers. In addition, as stated in our original comment letter, buffers should be appropriate to the species. Therefore, BLM should not require nest surveys or buffers in February for species or nests that would not be active at that time, as it would pose safety hazards related to winter travel that are not biologically necessary. See our original comments: The overlap of seasonal closures for vehicle travel in all alternatives of MA #4427 would block necessary travel and access for PacifiCorp. This includes areas that BCC is mandated to monitor as a permit requirement. Denying access to conduct monitoring by the seasonal closure of roads could put BCC in violation of its DEQ Land Quality Division Permit to Mine. These road closures would also limit reclamation activities of BBC and other PacifiCorp projects. Vehicle travel must be allowed when needed to access PacifiCorp’s projects, power lines, and other assets year-round for O&M activities and during emergencies.

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: Under this executive order, “The term ‘equity’ means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as ... persons with disabilities. “Historically, there has been no group more greatly marginalized and excluded by public land management policies, and motorized travel management policies in particular, than people with disabilities. Outdoor enthusiasts with ambulatory disabilities frequently rely on motorized travel as their sole means to enjoy recreating on public lands. Not everyone has the ability to hike into a remote wilderness area, but many such people are still able to drive Jeeps, side-by-sides, and ATVs, which are restricted to the designated motorized route network. It is also entirely possible that many of the Shoshone-Bannock tribal members and other tribal members will wish to access the sacred sites cited within the of the FEIS currently or will at some point suffer from mobility impairment disabilities. Because the elimination of motorized access in many of these areas from OHV closed areas and even ACEC designations would prevent disabled tribal members from accessing sacred sites, the motorized restrictions in Alternative 2 would likely be contrary to EO 13007, EO 13985, and AIRFA.

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: While the ADA focuses only on equality of opportunity, equity inherently focuses on equality of outcome. Any policy that is facially neutral but disproportionately harms a disadvantaged or marginalized group is considered inequitable. The BLM is therefore required by this executive order and others mandating that federal agencies consider “environmental justice” in NEPA proceedings to consider whether any route closures in the DEIS would disproportionately harm disabled users’ ability to access public lands - especially disabled tribal members wishing to access

sacred sites. Any approach to travel management that presumes the superiority of non-motorized forms of recreation like hiking over motorized recreation, or that justifies closing motorized access on the basis that people can still hike on those routes, is inherently discriminatory toward people with disabilities. Any large-scale closures of existing routes would unfairly and inequitably deprive people with disabilities of the ability to recreate in the area using the only means available to them. It is imperative that the BLM consider the access needs of disabled users, and it has failed to address them in the alternatives for this FEIS. This FEIS fails to comply with the Department of Interior Equity Action Plan. The BLM should consider new route density standards defined in the proposed Outdoor Americans with Disabilities Act. This new proposed legislation will require 2.5 miles of accessible routes on every square acre of public land. The limitations and prohibitions on new rights of ways and ACEC designations will greatly prohibit meeting these route density targets if this legislation were to become law in the near future. The BLM should ensure the Rock Springs RMP complies with this legislation now so that it does not have to undergo new planning if the legislation should pass.

Summary:

Protestors claim that the BLM violated Executive Order (EO) 13007, EO 13985, the American Indian Religious Freedom Act, and the Department of the Interior Equity Action Plan by limiting access from off-highway vehicle (OHV) closed areas and Area of Critical Environmental Concern (ACEC) designations, which disproportionately harms disadvantaged and marginalized groups recognized under the Americans with Disabilities Act. Protestors also claim that the BLM is blocking necessary travel and access for PacifiCorp by selecting alternatives that result in the overlap of seasonal closures for road/vehicle travel, including over areas that are mandated to be monitored per permit requirements.

Response:

Section 102(a)(7) of FLPMA declares that it is the policy of the United States that management of the public lands be on the basis of “multiple use” and “sustained yield.” Section 302(a) of FLPMA 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.” 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.

FLPMA’s multiple-use direction 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 tradeoffs between competing uses. The BLM has broad discretion to allocate the public lands to particular uses, 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. In fact, Section 202(b) of FLPMA directs the Secretary to, among other things, give priority to ACECs during the development or revision of a land use plan (43 U.S. Code [U.S.C.] 1712(b)).

The activities allowed within each ACEC depend on the resources and natural values the area is designated to protect. The BLM generally manages public lands based on the multiple-use mandate, which states that the resources and uses on public land must be utilized in a balanced combination that will best meet the needs of the people. The RSFO PRMP/FEIS proposes to make much of the planning area open for OHV use and discusses proposed OHV area limitations and those areas closed in detail in OHV Management Actions 6600 through 6620 (RSFO PRMP/FEIS pp. 2-86 through 2-88) and within the specific management proposed under each alternative under ACEC Management Actions 7400 through 7570 (RSFO PRMP/FEIS pp. 2-108 through 2-132), which represents a

reasonable and full range of alternatives. Maps 2-25, 2-26, 2-27, and 2-28 also show OHV area designations by alternative (RSFO PRMP/FEIS Volume 1, portable document format [PDF] pp. 408 through 412).

FLPMA Section 202(c)(3) (43 U.S.C. 1712) directs the BLM to, among other things, “give priority to the designation and protection of areas of critical environmental concern” during the planning process. The activities allowed within each ACEC depend on what special management is necessary to protect the resources and natural values for which the area is designated. ACEC designations, however, are subject to valid existing rights. As described in Appendix C of the RSFO PRMP/FEIS, the BLM evaluated all BLM-administered public lands in the planning area to determine which areas, if any, contain relevant and important values that require special management protections and should be considered for designation as ACECs or if any existing ACEC designations should be modified or terminated (RSFO PRMP/FEIS Appendix C, p. C-2). The results of this evaluation are presented Appendix C of the RSFO PRMP/FEIS, which informed the ACEC management in the RSFO PRMP/FEIS alternatives.

The range of alternatives in the RSFO PRMP/FEIS represents a full spectrum of options including a no action alternative (Alternative A), which is a continuation of current management under the Green River RMP and the Jack Morrow Hills Coordinated Plan and would not add any new OHV area designations or any additional change in management actions. Areas closed or limited to OHV use would not affect reasonable access for valid existing rights to lands within the ACECs or to private lands where access would require travel through the ACEC. As explained in Management Action 6000 (p. 2-67) of the RSFO PRMP/FEIS, under the PRMP, the BLM would “restrict or close access where necessary and consistent with OHV designations: 1) in specific areas to protect public health and safety; and 2) to protect significant resource values” (RSFO PRMP/FEIS Appendix K, pp. K-1 through K-6). In addition, the BLM would pursue easements, where practical, to provide access to public lands for recreational, wildlife, range, cultural/historical, mineral, special management area, and other resource management needs. Criteria to consider in land tenure adjustment proposals are provided in RSFO PRMP/FEIS Appendix K (pp. K-1 through K-6).

Accessibility laws and regulations do not change or infringe on the resource having priority status under those sites that the U.S. Access Board’s Guidelines for Outdoor Developed Areas governs, which include Tribal sacred sites where the physically undisturbed condition of the land is an important part of the sacred observance (U.S. Access Board’s Guidelines for Outdoor Developed Areas, Condition for Exception 4). Accessibility laws and regulations, including EO 13985, EO 13007, the American Indian Religious Freedom Act, the U.S. Department of the Interior’s Equity Action Plan, and the Americans with Disabilities Act, require equal treatment and access to recreational facilities, sites, and information. These laws do not grant or advocate a special opportunity or exemption to disadvantaged and marginalized groups or persons with impairments and accessibility needs.

The BLM complied with NEPA’s requirement to analyze the environmental consequences and impacts of OHV limitations and closures in the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

Lands with Wilderness Characteristics and Wilderness Study Area Management

The Wilderness Society

Julia Stuble

Issue Excerpt Text: In addition, BLM Manual 6320 requires the agency to “[c]onsider the benefits that may accrue to other resource values and uses as a result of protecting wilderness characteristics.”

As we explained in our previous comments on the draft EIS, LWC provide a wide range of benefits that accrue to other resource values, such as scenic, recreation, wildlife habitat and connectivity, cultural resource, life quality, balanced use, and economic values. BLM must also consider the presence of other resources within the LWC and their development potential, the degree to which other resources are present outside the LWC, and the compatibility of development with the protection of wilderness characteristics. All these factors weigh in favor of protecting wilderness qualities within at least some of the LWC. Many LWC overlap with crucial winter and yearlong range for pronghorn, elk, or mule deer, where any disruptions can broadly impact the functionality of migration patterns and corridors and adversely impact the long-term health of wildlife populations. And several of the inventoried LWC units are near or adjacent to existing WSAs that are being managed for protection based on the non-impairment standard, including the Bear Creek Trail unit (WY040-2011-088) bordering the Honeycomb Buttes WSA, Bush Creek unit (WY040-2011-074) near the Alkali Draw WSA, and Teepee Mountain unit (WY040-2011-021) near the Red Creek Badlands WSA. Managing these LWC for protection would help ensure consistent management direction across landscapes. Moreover, while there is some potential for coal and oil shale development within the RSFO, most of the LWC exhibit low potential. Managing all these LWC to allow uses that degrade wilderness qualities, without managing any LWC for the preservation of wilderness qualities, violates BLM's multiple use mission requiring a balanced combination of uses that preserves and protects some lands in their natural condition. Although the inventoried LWC units constitute less than 2% of the RSFO, they represent some of the most important areas for wilderness, wildlife, and recreation values and at least some portion of them should be managed to protect those values.

Jack Smith

Issue Excerpt Text: Section 1.6 A of BLM Manual 6310 - Conducting Wilderness Characteristics Inventory on BLM Lands (2021) outlines maintaining the LWC inventory. Section 1.6 A.

Maintaining the Inventory. This section of the manual states the BLM is to: maintain on a continuing basis an inventory of all public lands and their resources and other values, which includes wilderness characteristics. It also provides that the preparation and maintenance of the inventory shall not, of itself, change or prevent change of the management or use of public lands. Regardless of past inventory, the BLM must maintain and update as necessary, its inventory of wilderness resources on public lands. In some circumstances, conditions relating to wilderness characteristics may have changed over time, and an area that was Office determined to lack wilderness characteristics may now possess them. It appears the BLM has not updated and maintained this inventory. A number of the areas recommended in the 2011 Citizen's Proposal were adjacent to existing BLM WSAs, but not characterized because the agency felt a two-track trail divided the two areas and the recommended area could not stand by itself. I know a number of these two-tracks have further naturalized in the past 13 years and a single, contiguous unit would now meet the criteria for a LWC. In addition to updating the inventory for these lands contiguous to existing WSAs, I emphatically recommend the BLM continue to manage the nine existing LWC areas to maintain their wilderness characteristic until a thorough updated inventory has been completed. To abandon these areas without conducting an updated inventory does not appear to be in accordance with currently BLM mandates.

Jack Smith

Issue Excerpt Text: Additionally, I feel the BLM has not provided adequate justification for the decision to not manage the current inventory of LWCs for their wilderness characteristics. BLM Manual 6320. Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process outlines the procedure for considering lands with wilderness characteristics in the land use planning process. Sec. 1.6 A of this manual states: When such lands are present, the BLM will examine options for managing these lands and determine the most appropriate land use allocations for them. Considering wilderness characteristics in the land use planning process may result in several outcomes, including, but not limited to: (1) allowing for other multiple uses in an area while not

protecting wilderness characteristics; (2) Minimize impacts to wilderness characteristics via management restrictions (e.g., terms and conditions of use or stipulations) while emphasizing other multiple uses; or (3) Protecting wilderness characteristics while providing for compatible multiple uses. The BLM may choose any one of these outcomes, or some combination thereof, for a parcel of land possessing wilderness characteristics, provided that the land use plan documents the basis for this determination. It appears this FEIS has chosen allowing for other multiple uses while not protecting wilderness characteristics. This determination appears to be an arbitrary change from the Draft EIS because I can find no justification this is “the most appropriate land use allocation” for these lands. Again, I recommend the FEIS be modified to manage the existing LWCs for “protecting wilderness characteristics while providing for compatible multiple uses.”

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: In the case of *Utah v. Haaland*, the courts have made it clear that agencies should not be creating de facto Wilderness.”. Congress has reserved for itself the sole authority to designate wilderness. 16 U.S.C. § 1131(a). Congress granted the Secretary of the Interior specific and limited authority to identify lands meeting the definition of wilderness and study those lands to make recommendations to Congress. 43 U.S.C. § 1782. This wilderness inventory and study program expired in 1993 and has not since been expanded or reauthorized by Congress. The Department of the Interior and its agencies lack the legal authority to implement wilderness type management....Defendants have engaged in unlawful de facto wilderness management. A favorable decision from this Court will redress the Plaintiffs’ legal injuries and leave intact key components of the Plaintiffs’ land use and transportation plans. Such a determination and permanent injunction will leave the Utah wilderness debate where it belongs, with the United States Congress. Lands with Wilderness characteristics should not be managed as Wilderness. Wilderness Study Areas should also be released as a result of this plan. The RSFO RMP should not be using VRM classifications or ACEC designations to manage an area as wilderness because wilderness designation is reserved solely for Congress which is made painfully clear in the aforementioned court case. We encourage the BLM to address these concerns and truly comply with FLPMA.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: Under the Proposed RMP, however, BLM will not manage WSAs for wilderness values if Congress releases them, no viewshed buffer will be added, and the proposed mineral withdrawals will no longer cover several WSAs, leaving them vulnerable to mineral exploration. The Final RMP must do more to protect WSAs. Specifically, we urge BLM to pursue a mineral withdrawal that overlaps with all WSAs to protect their wilderness characteristics, as originally proposed. BLM Manual 6330 provides policy on the non-impairment standard for managing WSAs, which are part of BLM’s National Landscape Conservation System. “The BLM’s policy will protect the wilderness characteristics of all WSAs in the same or better condition than they were on October 21, 1976.” Under this policy, all uses or facilities within WSAs must be “temporary” and not create a demand for additional uses that are “incompatible with wilderness management.” Further, such uses or facilities must not create a “new surface disturbance,” meaning “[t]here is no new disruption of rock, soil, or vegetation . . . that would necessitate reclamation, rehabilitation, or restoration in order for the site to appear and function as it did prior to the disturbance.” And while mineral exploration, prospecting, and the location of claims is permitted within WSAs, “unless withdrawn,” such activities remain subject to both the non-impairment and the prevention of unnecessary or undue degradation standards. Pursuant to the non-impairment standard established by FLPMA, all WSAs in the RSFO should have a mineral withdrawal to maintain their suitability for preservation as wilderness. As set forth in the Proposed RMP, however, the following WSAs will remain completely or partially open to mineral exploration activities: Adobe Town, Devil’s

Playground, Twin Buttes, Red Lake, East Sand Dunes, Whitehorse Creek, Buffalo Hump, and Sand Dunes. We urge BLM to pursue a mineral withdrawal for all these special places.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM failed to comply with FLPMA’s multiple-use and sustained yield mandate in relation to the inventory, management, and protection of wilderness qualities. As summarized in the prior section, FLPMA imposes a multiple use and sustained yield mandate on BLM that prohibits the agency from managing public lands primarily for energy development or in a manner that unnecessarily or unduly degrades other uses, including the protection of wilderness characteristics on public lands. FLPMA also obligates BLM to inventory public land resource values, including wilderness qualities. Because the Final EIS does not give due consideration to citizen-proposed LWC and fails to adequately protect LWC and WSAs, it fails to comply with BLM’s multiple use and sustained yield mission with respect to wilderness values.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM’s inventory of citizen-proposed LWC is non-compliant. Again, BLM is obligated to maintain and update an inventory of all LWC on a continuing basis. The information gathered and inventoried is the foundation on which all subsequent management decisions are built, so “[r]egardless of past inventory, the BLM must maintain and update as necessary, its inventory of wilderness resources on public lands.” Further, BLM must timely evaluate all relevant citizen-submitted data and new information related to LWC, including the necessary forms such as the Inventory Area Evaluation, Route Analysis, and Photo Log for each area, then make its findings and updated inventory available to the public “as soon as practicable after completion.” NEPA also imposes a duty on agencies to take a hard look at relevant environmental information in a timely manner. In response to our previous comments asserting that BLM failed to update its LWC inventory to reflect citizen-provided information, the agency simply states that an LWC “inventory was completed for the entire Field Office as part of this RMP planning effort,” then it links to the ePlanning page with the inventory started in 2010 and completed in 2013. The Final EIS also points to the Summary of the Analysis of the Management Situation (AMS) completed in 2013 and describes its decade-old analyses of the inventory and baseline data as “accurate” for the purpose of formulating alternatives and comparing conditions and resource impacts during this 2024 planning process. Both the LWC inventory and BLM’s response to public comments are inadequate. The Final EIS relies on a non-compliant inventory that is outdated and inaccurate. In 2015, many of our organizations submitted supplementary comments pointing out the deficiencies in BLM’s LWC inventory, including faulty boundary delineation, improper assessments of naturalness, and arbitrarily narrow interpretations of outstanding opportunities for solitude or primitive and unconfined recreation. In particular, we highlighted areas such as Twin Buttes Draw, Anvil Wash, Henry’s Fork Hills, WSA Contiguous Unit, Sage Creek Mountain Badlands, Cedar Mountain North Basin, Dry Creek, North Point, Canyons, Little Dry Creek, Southwest Buttes, The Pinnacles, Harris Slough, and Joe Hay Rim. We repeated the same concerns when commenting on the Draft EIS, and also described the unique and outstanding landscapes within the RSFO-Northern Red Desert, Big Sandy Foothills, Devil’s Playground and Cedar Mountain, Greater Adobe Town, and Greater Little Mountain-where most of these citizen- proposed LWC are located. Where, such as here, an LWC inventory is not compliant with Manual 6310 and citizen-provided information reveals inconsistencies in BLM’s findings or errors in the inventory, BLM must investigate the on-the-ground conditions to determine changes, reassess its prior findings, and make appropriate updates to the inventory based on the new information. Nothing in the Final EIS indicates BLM has completed this work. If BLM cannot complete this work and incorporate an updated inventory into the ROD, at a minimum BLM should explicitly commit to updating the LWC inventory within one year of the ROD and to deferring any surface disturbing activities or leasing in any citizen-identified LWC until that work is completed.

Such a commitment would assure the public that BLM will update the LWC inventory in a timely manner and that wilderness qualities will not be unnecessarily or unduly degraded before then.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM’s proposed management of LWC will not adequately preserve wilderness character. Despite BLM’s initial proposal under Alternative B to preserve the wilderness qualities of all LWC, which we supported, the Proposed RMP takes the opposite approach and proposes to manage none of the LWC to preserve wilderness qualities. While BLM may favor certain land uses over others in specific instances, BLM’s management strategy for LWC outlined in the Proposed RMP fails to meet the “delicate balancing” of land uses mandated by FLPMA. More must be done to protect the invaluable wilderness quality lands in the RSFO. At a minimum, BLM must explain its decision to reverse course between the draft and final RMPs. According to the Final EIS, because many LWC overlap with ACECs and other management areas, the overlapping “designations would provide incidental protection for wilderness character.” We dispute any suggestion that the ACECs and other management area designations will adequately preserve LWC in the RSFO in a manner that complies with the principles of multiple use.

Summary:

Protestors stated that the BLM violated FLPMA’s multiple-use mandate, BLM Manual 6310, and BLM Manual 6320 by failing to manage lands with wilderness characteristics (LWC) to preserve wilderness qualities; failing to update or maintain its inventory of LWC; failing to document the rationale for not managing LWC for their wilderness characteristics; and allowing uses that degrade wilderness qualities. Protestors also claimed that the BLM violated FLPMA and Congressional directives by creating a de facto Wilderness Area and implementing wilderness-type management actions, arguing that LWC should not be managed as Wilderness. Protestors also stated that the BLM violated BLM Manual 6330, *Management of Wilderness Study Areas*, § 1.6.B (2012), and FLPMA by leaving Wilderness Study Areas (WSA) available to mineral exploration within the planning area. In addition, protestors stated that pursuant to the non-impairment standard established by FLPMA, all WSAs in the RSFO should have a mineral withdrawal to maintain their suitability for preservation as wilderness.

Response:

The BLM’s authority for managing lands to protect or enhance wilderness characteristics is derived directly from Section 202 of FLPMA, which provides direction to manage public lands for multiple use and sustained yield. FLPMA makes it clear that the term “multiple use” means that not every use is appropriate for every acre of public land, and that the Secretary 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)). Furthermore, 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.

Section 201 of FLPMA requires the BLM to maintain an inventory of all BLM-administered lands and their resources and other values, including wilderness characteristics. It also provides that the preparation and maintenance of the inventory shall not, of itself, change or prevent change of the management or use of BLM-administered public lands. BLM Manuals 6310 and 6320 provide policy direction for Section 201 inventory. Regardless of past inventory, the BLM must maintain and update,

as necessary, its inventory of wilderness resources on public lands. In some circumstances conditions relating to wilderness characteristics may have changed over time, and an area that was once determined to lack wilderness characteristics may now possess them. Per BLM Manual 6310, “The BLM will determine when it is necessary to update its wilderness characteristics inventory.” The BLM’s wilderness characteristics inventory process does not require that the BLM conduct a completely new inventory and disregard the inventory information that it already has for a particular area when preparing a land use plan (BLM Manual Section 6310.06.B).

As described in RSFO PRMP/FEIS Chapter 3 (p. 3-17), in 2010 the BLM conducted an evaluation of LWC and identified nine areas as having wilderness characteristics. Public comments recommended an additional 18 inventory units, which were evaluated in accordance with BLM Manuals and Policy. The wilderness characteristics inventory for the entire planning area was updated in 2013. The areas that met the definition of LWC, totaling 63,918 acres, are described in RSFO PRMP/FEIS Section 3.13, *Lands with Wilderness Characteristics* (pp. 3-16 through 3-17) and depicted on Map 3-21 (RSFO PRMP/FEIS Volume 1, PDF p. 438). Appendix U, *Comparative Analysis of Impacts from Action Alternatives*, provides additional analysis related to LWC across alternatives (pp. U-102 through U-105). In addition, the final inventory document for LWC that was completed as part of this RMP planning effort can be found on the project’s ePlanning page at <https://eplanning.blm.gov/eplanning-ui/project/13853/570>. This inventory includes Twin Buttes Draw, Anvil Wash, Henry’s Fork, and other proposed LWC areas.

BLM Manual 6330, *Management of Wilderness Study Areas*, provides general policies for the administration and management of these areas. The manual outlines procedures to ensure the Congressional mandate to manage WSAs “so as not to impair the suitability of such areas for preservation as wilderness” will be met. It specifically applies to WSAs identified by the wilderness review required by Section 603 of FLPMA, legislative WSAs, and WSAs identified during the land use planning process under the authority of Section 202 of FLPMA (BLM Manual 6330 pp. 1 and 1-1).

The BLM acknowledges that Section 603 of FLPMA, which requires a one-time wilderness review, has expired. However, the BLM has authority to protect lands it determines to have wilderness characteristics.

Under Sections 201 and 202 of FLPMA, BLM has authority and discretion to identify and manage wilderness resources consistent with its multiple-use mandate. Wilderness resources are considered to be part of the “resource and other values” the BLM is required to inventory on a continuing basis consistent with Section 201(a) of FLPMA (43 U.S.C. 1711(a)). As part of the land use planning process, FLPMA further provides the BLM with discretion to consider management of inventoried resources, including wilderness resources. Such discretion in analyzing potential management options for wilderness resources is neither prohibited nor constrained by the BLM’s obligations under Section 603 of FLPMA (43 U.S.C. 1782), i.e., the statutory direction for the BLM, in the 15 years that followed the passage of FLPMA, to inventory for areas suitable for Congress to designate as wilderness and to manage these areas so as not to impair the suitability of such areas for preservation as wilderness until Congress acts. Utilizing the BLM’s authority under Section 202 of FLPMA, the BLM has discretion to manage those areas identified as having wilderness resources for the protection of those resources, including to a non-impairment standard. In choosing such management prescription, nothing in FLPMA prevents the BLM from referring to such areas in the management plan as a WSA. Additionally, and unlike those areas designated as WSAs under Section 603 of FLPMA prior to its expiration, a land use planning decision to manage for the preservation of an area with wilderness resources as a WSA under Section 202 of FLPMA may be modified or changed through a future land use planning decision.

The BLM considered the protection of WSAs in the RSFO PRMP/FEIS per Manual 6330. The RSFO PRMP/FEIS identifies areas where the BLM will manage to protect WSAs. The BLM is maintaining the designation of 13 WSAs, 227,960 acres total, which will serve to preserve wilderness characteristics by implementing the management policy of BLM Manual 6330 to not impair the suitability of such areas for designation by Congress as wilderness. Resource uses that could impair the WSA's wilderness characteristics would not be allowed to occur (RSFO PRMP/FEIS p. 4-138).

As discussed in Section 4.14, *Lands with Wilderness Characteristics*, the assumption states "that lands identified as having wilderness characteristics contain wilderness value, including naturalness and outstanding opportunities for solitude or primitive recreation." A range of alternatives was considered, some of which resulted in activities that would affect both naturalness and opportunities for solitude and primitive recreation. As explained in Table 4-18, *Summary of Impacts for Lands with Wilderness Characteristics*, under the PRMP some LWC would not be specifically managed to maintain their wilderness characteristics and instead management direction including more emphasis on multiple uses (RSFO PRMP/FEIS pp. 4-98 through 4-100) is proposed. Under the PRMP, five LWC areas overlapping with ACECs would be managed for those ACECs' values and multiple use consistent with those special designated areas. The PRMP does not pursue land acquisitions in support of preserving and expanding LWC (RSFO PRMP/FEIS Appendix U, pp. U-104 through U-105).

Accordingly, the BLM considered the protection of LWC in the RSFO PRMP/FEIS. The RSFO PRMP/FEIS identifies areas where the BLM will manage to protect LWC. The BLM also properly exercised its authority to protect LWC and the RSFO PRMP/FEIS satisfies FLPMA's multiple-use policy. Accordingly, this protest issue is denied.

ACEC Designation

Wyoming Oil and Gas Conservation Commission

Tom Kropatsch

Issue Excerpt Text: In comment 13658-14 WOGCC points out that BLM has not met the legal standards for designating ACECs. Unfortunately, BLM has ignored this comment and not met the standards of 43 CFR 1610.7-2 in designating ACECs. BLM's lackluster response pointed to "analysis" in the Draft EIS Section 2.2.6, which contains the management actions, not analysis of them. In Appendix C BLM correctly states, "designation is based on whether a potential ACEC requires special management attention in the selected plan alternative." BLM also includes in their definition of ACEC on page GL-3 that ACECs are "areas within public lands where special management attention is required to protect and prevent irreparable damage" to the relevance and importance (R&I) value(s) being protected. Furthermore 43 CFR 1610.7-2(d){3}{ii} states that it must be "impossible" to protect against irreparable harm without the special management attention. The document does not analyze the special management attention to determine if the R&I value(s) would suffer irreparable harm without the special management attention for each ACEC. BLM did not even bother to describe which special management protects which R&I value. The document is also silent about how the current restrictions are not sufficient to protect the R&I values from irreparable harm or what difference the special management attention would make in preventing such harm. In Appendix C, BLM concludes that each R&I value will be "evaluated for future management actions in the final EIS," however, no such evaluation was found by WOGCC. BLM has failed to respond to WOGCC's comment and failed to meet the requirements of 43 CFR 1610.7-2 in designating the ACECs in the RMP.

Jack Smith

Issue Excerpt Text: the BLM’s decision to eliminate the Monument Valley Management Area is arbitrary and without justification. I strongly oppose this proposal and feel the current Management Area status must be maintained. Upon completion of further evaluation, I feel the area would easily meet the requirements for management as an ACEC. Page 2-106 of the FEIS provides a table of the alternatives for Monument Valley. The language describing the existing conditions (Alternative A) states: Designation of the area as an ACEC would be deferred until a determination can be made that specific resources meet the ACEC relevance and importance criteria. Although the Monument Valley area has unique scenic features and has the apparent high potential for significant cultural and paleontological resources, there has been little systematic inventory of these features and resources. This lack of information precludes identification of specific resources that meet the ACEC relevance and importance criteria for designation of ACECs. Rather than considering ACEC designation without a more complete appreciation of the values in the area and appropriate management prescriptions, the area would be targeted for additional cultural and paleontological inventory. If specific resources are identified that meet the relevance and importance criteria, the area would then be considered for designation as an ACEC. Further public input would be solicited at that time. Instead, the preferred alternative states the Management Area status will be removed, and the area will be managed “for Multiple Use.” Note: management of Monument Valley under ACEC or Management Area status would still allow for a significant number of “multiple uses” as defined in FLPMA. I found no discussion on a determination and evaluation of the specific resources present in the Monument Valley area to warrant the elimination of Management Area status. In fact, Appendix C.6 of the document (Pages C-23 and 24) contains the Monument Valley ACEC Evaluation. This evaluation shows that Monument Valley met all four Relevance Value Criteria and met 3 of 5 Importance Value Criteria for ACEC designation. The only two value criteria not met were those pertaining to human safety and public welfare issues.

Sweetwater County Board of County Commissioners***Keaton West***

Issue Excerpt Text: BLM Failed to Comply with the Procedural Notice Requirements for Areas Proposed and Not Proposed for ACEC Designation Pursuant to 43 C.F.R. § 1610.7-2(b) (2023), “[t]he State Director, upon approval of a draft resource management plan, plan revision, or plan amendment involving ACECs, shall publish a notice in the Federal Register listing each ACEC proposed and specifying the resource use limitation, if any, which would occur if it were formally designated.” The Federal Register notice for the Rock Springs Proposed RMPA and DEIS provided a list of the proposed ACECs under the preferred alternative and included only the ACEC name, acreage, and short list of vague significant values for the areas. 88 Fed. Reg. 56654, 56654-56655 (Aug. 18, 2023). The Federal Register notice failed to specify the resource use limitation(s) that would occur if the areas were formally designated as ACECs thereby failing to provide notice to anyone affected by the particular limitation(s). See *id.* The BLM failed to correct this notice between the DEIS and publication of the FEIS. Providing all information in the notice as required by the regulations will properly inform the public of the implications of any ACEC designations and potential restrictions that will be placed on other multiple uses. In addition, BLM Manual 1613 requires the BLM to provide a list of all areas considered for ACEC designation, including nominated areas that are not proposed for ACEC designations under the Preferred Alternative. See BLM Manual 1613, Section 21.A.2 and Section 32 (Sept. 29, 1988). Sweetwater County made a Freedom of Information Act Request (“FOIA”) asking for documents related to the existing and proposed ACECs for the Rock Springs RMPA and after receiving the documents, it is clear that the BLM failed to disclose those areas proposed for ACEC designation but not carried forward for consideration within the FEIS or the Proposed RMPA. In particular, the Greater Cedar Mountain Area was proposed during the scoping period but never addressed by the BLM. Attach. 1, Wyoming Outdoor Council Scoping Comment Except (Apr. 4, 2011). In addition, the Rock Springs Field Manager stated at a

public meeting that “over the course of scoping, because we scoped in 2011, and again in 2013, we had received over 27 ACEC proposals.” Attach. 2, Transcript of Rock Springs Workshop Meeting at p. 16 (Sept. 25, 2023). Neither the Scoping Report for the Rock Springs RMP revision, the current Proposed RMPA and FEIS, nor the Federal Register Notice for the release of the DEIS include a list of all 27+ proposed ACECs. Appendix C of the FEIS lists 20 proposed ACECs, but it ignores others that were proposed but not found to meet either relevance, importance, or the necessity requirement.

Sweetwater County Board of County Commissioners

Keaton West

Issue Excerpt Text: ii. BLM Failed to Comply with Past Monitoring and Inventory Requirements and to Establish Any Standards for Monitoring Newly Established ACECs Pursuant to 43 C.F.R. § 1610.4-9, a “proposed plan shall establish intervals and standards, as appropriate, for monitoring and evaluation of the plan.” These should be based on the sensitivity of the resource to the decisions involved and provide for a way to evaluate whether mitigation measures are satisfactory or a significant change has occurred that warrants a plan amendment. *Id.* In addition, BLM Manual 1613 requires ACEC monitoring to be part of the monitoring provisions in an RMP. BLM Manual 1613, Section 63 (Sept. 29, 1988). Intervals and standards for monitoring ACECs must be established and “is critical - not only to ensure that protection of the identified resource values occurs, but also to keep the managing official aware of how well the RMP provisions are accomplishing their objectives.” *Id.* The BLM is also required to annually report on the progress of implementing and monitoring ACECs. *Id.* at Section 65. In addition to the monitoring requirements, FLPMA requires “an inventory of all public lands and their resource and other values . . . giving priority to areas of critical environmental conditions. 43 U.S.C. § 1711(a). The BLM must analyze “inventory, assessment, and monitoring data” to determine whether there are areas containing important resources that are eligible for ACEC designation. 43 C.F.R. § 1610.7-2(c)(1). The BLM is also required to reevaluate existing ACECs “to determine if the relevant and important values are still present and special management attention is still necessary.” 43 C.F.R. § 1610.7-2(c)(2). NEPA also requires “professional integrity, including scientific integrity, of the discussion and analysis in an environmental document” and agencies to “make use of reliable data.” 42 U.S.C. § 4332(D)-(E); see also 40 C.F.R. § 1502.15(b). Sweetwater County made a FOIA request during the DEIS comment period and as part of that request asked the BLM for all the Annual Status Reports involving ACECs designated under the Green River RMP. The BLM provided the Annual Status Reports from 1996 to the present, which only included two reports from 2022 and 2023. However, neither of these two reports provided any new information, let alone any monitoring data, to assess whether the ACEC designations were accomplishing their objectives. See Attach. 3, Annual Status Reports for 2022 and 2023. The BLM also consistently concluded that none of the existing ACECs required the development of a management plan. See *id.* In the BLM’s Summary of the Analysis of the Management Situation, the BLM only generally concluded that existing ACECs were in fair or good condition without further explanation or suggestions for change in management. BLM Summary of the Analysis of the Management Situation at 196-97, 528-43 (Aug. 2013). It is impossible for the BLM to assess whether relevant and important values are still present within a designated ACEC and that special management attention is necessary if there is no data or ongoing inventories conducted to assess these areas. The BLM claims to have “reviewed all BLM administered public lands in the planning area” to determine if existing ACEC designations should be modified or terminated (RMPA and FEIS at C-2), but what data and information was reviewed if appropriate monitoring of the ACECs never occurred? The BLM’s failure to properly monitor and assess existing and newly established ACECs will only continue under the Proposed RMPA. The FEIS fails to discuss how it will monitor the ACEC and to establish intervals or standards for monitoring. The Proposed RMPA only provides a management action to “establish an implementation, monitoring, and evaluation process, including all interdisciplinary monitoring plan, which would evaluate the overall effectiveness of implementing the management decisions for the planning area and would be used as

a basis for making management adjustments.” RMPA and FEIS at 2-3 (Mgmt. Action #0008). Similar language was provided in the Green River RMP: “Management actions and decisions of the Green River RMP will be tracked and evaluated to determine effectiveness and to determine if the objectives of the RMPS are being met Intervals and standards for monitoring and evaluation will be established as necessary.” Attach. 4, Green River Record of Decision and RMP Excerpt at p. 6 (Oct. 1997). If the past tells us anything, this was not sufficient and resulted in little to no monitoring. A monitoring plan, and associated intervals and standards, should be developed as part of this Proposed RMPA and FEIS. 43 C.F.R. § 1610.4-9.

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Keaton West

Issue Excerpt Text: BLM Fails to Adequately Explain the Proposed ACEC’s Relevance and Importance The BLM’s proposed ACEC designations for the northern portion of the Rock Springs Field Office looks more like a land grab rather than a thought-out and serious evaluation of the entire area’s eligibility for designation as an ACEC. The Steamboat Mountain ACEC was expanded from 42,280 acres under the Green River RMP to 439,081 acres in the Proposed RMPA. RMPA and FEIS at 2-125 (Mgmt. Action #7516). As part of this expansion, the Steamboat Mountain Management Area, the West Sand Dunes Archaeological District Management Area, and the western portion of the Red Desert Watershed Management Area were all included within the newly expanded ACEC. Id.; compare also id. at Map 2-36 and Map 2-40. The BLM also proposes designating the South Wind River ACEC, which contains 281,104 acres. Id. at 2-129 (Mgmt. Action #7538). This ACEC was in large part previously managed as the Wind River Front Special Management Recreation Area, which had been about 257,680 acres. Id. at 2-84 (Mgmt. Action #6543), 2-129 (Mgmt. Action #7538); compare also Map 2-36 and Map 2-40. A large majority of the acreage included within the new and expanded ACECs includes areas that were previously managed as special management recreation areas or general management areas as noted above. The BLM has provided little explanation as to why these areas now meet the relevant and important criteria when previously they did not warrant ACEC designations. While Appendix C provides documentation of the resources the BLM finds to hold relevance and importance, there is no explanation as to what has changed in these areas between the development of the Green River RMP and this Proposed RMPA to warrant additional protection.

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Issue Excerpt Text: The Red Desert Watershed Management Area was found to not contain values that meet relevance and importance criteria under the Green River RMP. Attach. 4, Green River Record of Decision and RMP Excerpts at 110 (Table A1-1) (Oct. 1997) (“The area did not meet the importance criteria. Where values need special management emphasis, this has been provided. However, as a unit, the area does not need special emphasis to be effectively managed.”); see RMPA and FEIS at 2-100 (Mgmt. Action #7305). However, in Appendix C, the BLM concludes that the western portion of this Management Area now meets the relevance and importance criteria and could be eligible for ACEC designation without explaining what has changed. RMPA and FEIS at C-34 - C-35. Most of the relevance and importance discussions relate to resources values and areas that are already protected and are limited in size. The Continental Divide National Scenic Trail, for example, is only within the northern portion of the Red Desert Watershed Management Area and is protected by the proposed National Trails Management Corridor, the National Historic Preservation Act (“NHPA”), 54 U.S.C. §§ 300101-300315, and the National Trail System Act (“NTSA”), 16 U.S.C. § 1242. See RMPA and FEIS at C-34 - C-35, Map 2-40.... The BLM must rely on big game winter habitat, big game parturition habitat, the Sublette mule deer migration corridor, and Greater Sage-Grouse PHMA to justify this expansive land grab. Id. at C-50 - C-51. But again, relying on wildlife habitat that is not sensitive, rare, or irreplaceable, and otherwise found throughout the planning area and other BLM lands is insufficient basis for an ACEC designation. See id. at 3-12 - 3-13 (Big game species are not on lists of sensitive wildlife species); see also BLM Manual 6840 at Section .2 (Dec.

12, 2008) (It is in the interest of the BLM and the public “to undertake conservation actions that improved that status of [sensitive] species so that their Bureau sensitive recognition is no longer warranted.”). The BLM also makes contradictory conclusions regarding this type of wildlife habitat by deciding that the proposed Big Game Migration Corridor ACEC does not warrant designation. *Id.* at 2-131 (Mgmt. Action #7555). This proposed ACEC overlaps with the proposed Steamboat Mountain ACEC expansion. Compare *id.* at C-35, C-52, with *id.* at C-58. Finally, specific special status plants are listed as relevant and important, but only the limber pine is a sensitive plant. See *id.* at 3-14 - 3-15, C-50. But no data is provided showing the location of this sensitive plant within the proposed 268,202 area. See 43 U.S.C. § 1711(a); 42 U.S.C. 4332(D)-(E); 40 C.F.R. § 1502.15(b).

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Keaton West

Issue Excerpt Text: Sweetwater County similarly protests the establishment of the proposed South Wind River ACEC. The northern portion of this proposed ACEC contains 171,172 acres of land that was previously managed as the western unit of the Wind River Front Special Recreation Management Area. See *id.* at 2-85 (Mgmt. Action #6554), C-37, Map 2-36, Map 2-40. This designation emphasized “enhancing recreation opportunities and to focus management on areas with high recreation values or areas where there are conflicts between recreation and other uses.” *Id.* at 2-84. The BLM does not explain why this area now requires an ACEC designation to protect the high recreational values. See BLM Handbook 8320-1 at p. I- 14 - I-15 (Aug. 22, 2014) (Area and site-specific information for recreation management areas is important to identify alternatives, management actions, and alternative uses for SRMAs); see also *id.* at I-37 (“Overlapping designations can be problematic because objectives for other special designations (e.g. wilderness, wilderness study areas, [ACECs], wild and scenic rivers) may be inconsistent with [recreation management area] designations.”). Instead, the BLM again proposes an ACEC designation to protect big game crucial winter range, big game parturition, Sublette mule deer migration corridor, and Greater Sage- Grouse PHMA. *Id.* at C-38. When the same type of habitat is consistently relied upon for designating the entire northern portion of the Rock Springs Field Office as an ACEC, it starts to lose its importance value. The BLM cannot continue to argue that these types of wildlife habitat in particular are somehow rare, fragile, sensitive, or irreplaceable when it is found throughout the Field Office and neighboring Field Offices. The southern portion of the proposed South Wind River ACEC, totaling 117,184 acres, is also relying on wildlife habitat and National Historic Trails as the relevant and important resources that require protection. *Id.* at C-39 - C-40. The Proposed RMPA already plans to protect the historical trails through the designation of the National Trails Management Corridor, which specifically addresses the management and protection of these trails. See *id.* at 2-129 (Mgmt. Action #7539 for the Proposed RMPA states: “Management of this area is addressed through management of the National Trails Corridor.”). In addition, National Historic Trails are protected by existing statutory framework in the NHPA and NTSA. The BLM’s analysis of the relevant and important criteria of the proposed ACECs in Appendix C, especially for the South Wind River ACEC and the Steamboat Mountain ACEC, is unsupported by the resources on the ground and has substantial failings for the reasons stated above. The reason for designating ACECs is to protect and prevent irreparable damage to important historic, cultural, or scenic values and important fish and wildlife resources. 43 U.S.C. § 1702(a). It is not meant to provide a blanket conservation management strategy over large swaths of land to protect general wildlife habitat that is not otherwise unique, rare, sensitive, or irreplaceable.

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Issue Excerpt Text: BLM Ignores Analyzing Whether Special Management is Necessary to Protect and Prevent Irreparable Damage to Important Resources Even if a nominated area meets the relevance and importance criteria for the ACEC, the BLM must still consider whether “special management attention is required” “to protect and prevent irreparable damage to important historic,

cultural, or scenic values, fish, wildlife, and plant resources, or other natural system or processes.” 43 U.S.C. §1702(a); see also BLM Manual 1613, Section 12 (Sept. 29, 1988). The BLM ignores this portion of the ACEC analysis and fails to consider how the relevant resources are already protected under existing statutes, regulations, and/or existing management actions. In addition, for those ACECs found to have met relevance and importance criteria in Appendix C but are not proposed for designation, the BLM does not explain why ACEC designation is unnecessary to protect the resources of Concern. The BLM only provides half of the analysis as it relates to the ACEC evaluation. A significant example of this failure is the BLM’s attempt to layer ACEC designations on top of WSA designations throughout the planning area under the Proposed RMPA. If the ACEC designation proposes the same management and restrictions as a Wilderness Study Area (“WSA”), then there is no reason for an overlapping ACEC designation. By law, WSAs are closed to development. 43 U.S.C. § 1782(c). The County objects to any ACEC designations that overlap with existing WSAs, including the Pine Springs ACEC, Oregon Buttes ACEC, Greater Sand Dunes ACEC, and Steamboat Mountain ACEC. See RMPA and FEIS at Map 2-40. The County also objects to any ACEC designations that border WSAs to the extent the BLM is using it as substitute for expanding the current WSAs’ boundaries. According to BLM’s own policies, “[a]n ACEC designation will not be used as a substitute for wilderness suitability recommendations.” BLM Manual 1613, Section 06 (Sept. 29, 1988). While ACECs may be designated within WSAs, “[i]f an ACEC is proposed within or adjacent to a [WSA], the RMP or plan amendments shall provide a clear description of the relationship of the ACEC to the recommendations being made for the WSA.” Id. at Section 33.D. One thing to consider when determining the appropriate management prescriptions for a Proposed ACEC is if the area includes “an area recommended for designation (or already designated)” and if the “management under the other designation afford sufficient protection of potential ACEC values.” Id. at Section 22.A.6. The BLM has conveyed to cooperators that the ACEC designations on top of WSAs are proposed in case the WSAs are not retained. However, BLM fails to provide any discussion in the FEIS on the relationship between the proposed ACECs and the overlapping and/or neighboring WSAs.

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Keaton West

Issue Excerpt Text: The other resource values often cited in the ACEC analysis include areas of cultural significance, such as rock art panels, petroglyphs, and other geological features, as well as historic trails. While Sweetwater County does not object to the relevance and importance of some of these sites, the BLM fails to recognize the statutory protections these sites already receive. The Archaeological Resources Protection Act (“ARPA”), 16 U.S.C. §§ 470aa-470mm, and the NHPA already provide longstanding protections to archaeological and cultural resources. The BLM must show additional special management is required to protect these resources or that the current laws are inadequate to protect them. Sweetwater County especially objects to the expansion of existing ACECs, such as the Steamboat Mountain ACEC, to protect historic and cultural resources when those specific sites are already protected by statute and pursuant to other proposed management actions. See supra Section III.a.iii.1. Many of these sites are already protected under existing management as ACECs, special management areas, or WSAs, and such sites cannot be the basis for increasing ACECs when the specific resource and value to be protected is not even located in the expanding boundary. In addition, the BLM proposes to manage rock art sites and their surrounding ½ mile viewshed “to protect their cultural and historical values” by prohibiting surface occupancy, placing a no surface occupancy for fluid minerals, designated it as a right-of-way exclusion area, etc. RMPA and FEIS at 2-55 (Mgmt. Action #5100). ACEC designation is not necessary to protect this resource.

Sweetwater County Board of County Commissioners

Keaton West

Issue Excerpt Text: 1. The BLM failed to provide proper public notice of the proposed Areas of Critical Environmental Concern (“ACECs”) and to explain why certain areas nominated by the public

did not qualify for designation as an ACEC in violation of the Federal Land Policy and Management Act (“FLPMA”), its regulations, and policy. See 88 Fed. Reg. 56654, 56654-56655 (Aug. 18, 2023); RMPA and FEIS at 3-29 - 3-30, 4-137 - 4-139, Appendix C. a. Sweetwater County raised this issue in its January 16, 2024, comments on the Proposed RMPA and Draft Environmental Impact Statement (“DEIS”).

Sweetwater County Board of County Commissioners

Keaton West

Issue Excerpt Text: The BLM failed to adequately inventory and monitor existing ACECs leading to inadequate data to evaluate existing ACEC designations in this Proposed RMPA and FEIS, and failed to develop a framework or any standards for future monitoring of the proposed ACECs within the Proposed RMPA in violation of FLPMA, the National Environmental Policy Act (“NEPA”), and regulations. See RMPA and FEIS at 2-3 (Mgmt. Action #0008), 2-108 - 2-132; see also BLM’s Summary of the Analysis of the Management Situation at 196-97, 528-43 (Aug. 2013). a. Sweetwater County raised this issue in its January 16, 2024, comments on the Proposed RMPA and DEIS.

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Keaton West

Issue Excerpt Text: 3. The BLM failed to properly analyze and explain the relevant and important resources for each proposed ACEC, as well as the need for or against designating each proposed ACEC in the Proposed RMPA and FEIS in violation of FLPMA and its regulations. See RMPA and FEIS at 2- 184 (Mgmt. Action #6543), 2-125 (Mgmt. Action #7516), 3-29 - 3-30, 4-137 - 4-139, Appendix C. This has resulted in expansion of ACECs in the Rock Springs Field Office by over three times the amount of acreage designated within the Green River RMP. a. Sweetwater County raised this issue in its January 16, 2024, comments on the Proposed RMPA and DEIS. In addition, the Coalition of Local Governments, in which the County is a member, raised this issue numerous times during the planning process including in its comments on the Analysis of the Management Situation in 2013, scoping comments, February 2016 comments on Alternative D, August 2017 and December 2019 comments on the Administrative DEIS, and the January 2024 comments on the DEIS.

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Keaton West

Issue Excerpt Text: BLM FAILED TO COMPLY WITH FLPMA AND ITS REGULATIONS AND POLICIES WHEN CONSIDERING, EVALUATING, AND MANAGING ACECS A major issue of Concern in this Proposed RMPA and FEIS stems from the BLM’s mishandling and faulty analysis of areas proposed for designation as ACECs. From start to finish, the BLM has failed to comply with FLPMA and its own regulations and policies, including procedural errors in providing public notice of the proposed ACECs, failures to disclose why nominated areas did not qualify for designation as an ACEC, failing to monitor existing ACECs or provide any framework for future monitoring, and not properly analyzing and explaining the need for expanding the amount of designated ACEC acreage by over three times the amount in the Green River RMP.

Sublette County, Wyoming

Jeness Saxton

Issue Excerpt Text: The BLM’s response to these issues is inadequate on multiple fronts. It fails to demonstrate compliance with legal requirements, justify the broad scope of these designations, or explain the rationale behind establishing new ACECs within existing ones. The relevance and importance analysis in Appendix C of the FEIS is flawed, lacking factual basis, and inconsistent with previous decisions in the Green River Resource Management Plan (RMP), without an explanation of what has changed over time to justify why these areas need more restrictive management to protect the resources of Concern. According to federal regulations, ACECs must require special management to prevent irreparable damage to important values 43 CFR § 1610.7-2. However, the BLM has not

provided sufficient evidence that irreparable damage is likely such that special management is necessary for any of the proposed ACECs. This is particularly true for areas where existing protections, such as wilderness study areas and Greater sage-grouse protections, are already in place. The BLM has failed to assign special management attention to the specific relevance and importance values allegedly associated with each designation. Without an assignment of special management attention, it was impossible for the BLM to evaluate whether it would be possible to prevent irreparable harm. There is no analysis or discussion about irreparable harm in Appendix C, 4.21 “Special Designations,” or 2.2.6. “Management Actions,” or 3.22.1 “Special Designation - Areas of Critical Environmental Concern and Other Management Areas.” Beyond citations to Section 103(a) and providing a conclusory statement that maintaining existing ACEC designations “will ensure special management attention,” there is no reference to special management attention for new ACEC designations.

Sublette County, Wyoming

Jeness Saxton

Issue Excerpt Text: NEPA also requires that ACEC designations are determined by the State Director, taking into consideration “The value of other resource uses in the area;” 43 CFR 1610.7-2(j)(1)(ii) and “The relationship to other types of designations and protective management available” 43 CFR 1610.7-2(j)(1)(iv). Considering the inadequacies within the socioeconomic portion of the FEIS and the lack of any reference to other resource use values, it is clear this analysis has not taken place. The BLM’s failure to demonstrate a clear need for additional protection raises questions about the rationale behind these designations. Sublette County is particularly concerned about the cumulative economic impacts of these overlapping ACEC designations, which will severely limit the availability of public lands for responsible use and development. The proposed RMP effectively renders vast areas of public land inaccessible for multiple uses through its combined special designations and land restrictions, which contradicts the principles of FLPMA. As discussed in the previous section, the BLM’s socioeconomic analysis fails to adequately consider the ripple effects these designations will have on industries such as grazing, mineral extraction, energy development, and recreation. Without a more comprehensive analysis of how these ACECs will impact Sublette County’s communities and economies, the BLM’s proposed designations lack the necessary foundation for responsible land management, including multiple use and sustained- yield objectives.

Sublette County, Wyoming

Jeness Saxton

Issue Excerpt Text: The BLM has not adequately explained the overall relevance and importance of each identified resource in its ACEC designations. The South Wind River ACEC highlights National Historic Trails. However, these historic trails and wagon trails only pass through a portion of the proposed ACECs, and many of the cultural sites are already protected under previous designations such as the National Historic Preservation Act (NHPA). Pursuant to the National Register Bulletin #15, a trail must also retain its integrity to be considered in the National Register of Historic Places. A trail must still be well-established or still visible, and not obscured by modern use. For those that are visible, a ¼ mile buffer on each side of the trail is only warranted pursuant to the National Trails Act. See e.g. 16 U.S.C. § 1244(a)(3) (“The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.”). A ¼ mile buffer on each side of the trail is also consistent with how the neighboring BLM field offices manages historic trails, a point the BLM fails to disclose in this FEIS. See BLM Manual 6280 at 4-7 (Sept. 14, 2012) (“National Trail management corridor boundaries should be compatible with neighboring BLM Field Offices and other National Trail land managers and should edge-match, were possible.”). As noted in our comment letter, this ¼ mile buffer aligns with the Sublette County Federal & State Land Policy #6, which reads, “Support federal and state land management agencies in requiring a quarter- mile protective buffer along designated historic trails on public lands within the County.” The BLM’s attempt to expand ACEC designations to protect resources that were already

safeguarded under the Green River RMP lacks justification. This expansion appears to be redundant and fails to provide a clear rationale for the need to increase the protected areas beyond their current boundaries.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The Coalition objects to the relevance and importance analysis in Appendix C of the FEIS as incomplete, without basis in fact, and contrary to prior decision in the Green River RMP. The Coalition objected to the ACEC analysis throughout the planning process and includes the ACEC comment table as Attachment 1, which contains specific comments addressing the relevance and importance discussion for all proposed ACECs. In particular, the Coalition objects to the excessive expansion of the Steamboat Mountain ACEC and the new designation of the South Wind River ACEC. These two ACECs combined for more than half (720,185 acres) of the total acreage proposed for ACEC designation in the Proposed RMPA. RMPA and FEIS at V-29. ACEC designations were not intended to result in the exclusion of large swaths of land from multiple use but rather only protect those specific areas of public land where special management is needed to protect important resources. While some portions of the Steamboat Mountain ACEC and South Wind River ACEC may warrant some level of protection, there is no basis for proposing to designate over 720,000 acres of public land as an ACEC. The major issue with the BLM's analysis of these two areas' "relevance" and "importance" is it ignores that it had previously determined a large majority of the areas did not warrant ACEC designation in the Green River RMP. There is no discussion in the FEIS as to what has changed over time or why these areas need more restrictive special management to protect the resources of Concern. In particular, the Red Desert Watershed Management Area was found to not contain values that meet relevance and importance criteria under the Green River RMP. RMPA and FEIS at 2-100 (Mgmt. Action #7305). However, in Appendix C, the BLM now concludes without adequate explanation that the western portion of this Management Area now meets the relevance and importance criteria, and it has been proposed as part of the Steamboat Mountain ACEC. Id. at 2-125, C-33 - C-35, Map 2-40. The BLM similarly includes the Steamboat Mountain Management Area and the West Sand Dunes Archaeological District Management Area into the proposed Steamboat Mountain ACEC without any discussion as to why the previous management designations was failing. Id. at 2-125, Map 2-40. The South Wind River ACEC suffers from a similar problem. The northern portion of this proposed ACEC contains 171,172 acres of land that was previously managed as the western unit of the Wind River Front Special Recreation Management Area ("SRMA"). Id. at 2-85 (Mgmt. Action #6554), C-37, Map 2-40. Under the Green River RMP, the SRMA emphasized "enhancing recreation opportunities and to focus management on areas with high recreation values or areas where there are conflicts between recreation and other uses." Id. at 2-84 (Mgmt. Action #6543). The BLM does not explain why this area should no longer be managed to protect the areas high recreational values and why more restrictive management is necessary to protect other resources.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: Despite failing to explain why the BLM is making such a dramatic shift in management for a large portion of land in the northern portion of the field office, it has also failed to adequately explain each identified resources overarching relevance and importance. To begin, the BLM identifies specific cultural resources and sites it claims warrant protection including the Continental Divide National Scenic Trail, the Pinnacles Geologic Feature, Indian Gap, Indian Gap Trail, and Tri-territory Historic Site for the Steamboat Mountain ACEC. See id. at C-34 - C-35, C-50 - C-51. The South Wind River ACEC similarly points out National Historic Trails. Id. at C- 39 - C-40. The historic trails travel through only a portion of the proposed ACECs. Compare id. at Map 3-7 with id. at Map 2-40. The cultural sites are also limited in size and were already protected by previous designations (i.e. Oregon Buttes ACEC, Pinnacles ACEC, Steamboat Mountain ACEC (original designation), White Mountain Petroglyphs ACEC, and Wilderness Study Areas). See id. at 2-60 - 2-

61, 2-105, 2-127 - 2-128; Compare id. Maps at 2-36 and 3-7 with id. at Map 2-40. The BLM cannot expand the ACEC designations to protect the same resources that were already protected under the Green River RMP without providing an adequate explanation for additional acreages to protect these resources. The only other relevant and important resource the BLM references in Appendix C for these two ACECs is big game crucial winter range, big game parturition habitat, the Sublette mule deer migration corridor, and Greater Sage Grouse Priority Habitat Management Areas (“PHMA”). Id. at C-34 - C-35, C-38 - C-40, C-50 - C-51. However, there is no discussion about how the wildlife habitat within the Rock Springs Field Office is any more significant or important than habitat found in the Little Snake, White River, Pinedale, Kemmerer, or Vernal Field Offices, or any habitat found in any other state. Nor has the BLM been able to explain how the wildlife habitat is so sensitive, rare, or irreplaceable compared to any other habitat found across BLM’s public lands. Wildlife habitat in the Rock Springs Field Office does not have “special worth, consequence, meaning, distinctiveness, or cause for Concern, especially compared to any similar resource.” BLM Manual 1613, Section 11(B)(1) (Sept. 29, 1988).

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The BLM’s decision to designate the two ACECs to protect in part the big game migration corridor is also contradictory to its decision to not designate the entire proposed Big Game Migration Corridor as an ACEC. RMPA and FEIS at 2-131 (Mgmt. Action #7555), C-56 - C-58. While portions of this proposed ACEC overlap with the South Wind River and Steamboat Mountain ACEC, there were other portions located outside of these designations as well. Compare id. at C-58 with Map 2-40. In addition, the BLM is concluding in the Greater Sage Grouse Proposed RMPA that no PHMA or other sage grouse habitat areas warrant ACEC designations. Greater Sage Grouse habitat is located throughout Wyoming and multiple other states. Attach. 2, Greater Sage Grouse Habitat Map. The BLM completely ignores this contradictory conclusion by finding that Greater Sage Grouse PHMA is a basis for designating the South Wind River and Steamboat Mountain ACECs. The expansion of the Steamboat Mountain ACEC and the establishment of the South Wind River ACEC was based on a flawed analysis that sought to provide over expansive protection to specific cultural sites and to protect wildlife habitat that is not more than local significant or that could not be considered rare or sensitive. The BLM must reevaluate these proposed ACECs and either completely drop them from designation or otherwise continue managing the areas as it previously did under the Green River RMP.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The BLM failed to properly analyze and explain the relevant and important resources for each proposed Areas of Critical Environmental Concern (“ACEC”), as well as the need to designate proposed ACECs to protect the relevant resources in the Proposed RMPA and FEIS in violation of FLPMA and the regulations. See RMPA and FEIS at 2-184 (Mgmt. Action #6543), 2-125 (Mgmt. Action #7516), 3-29 - 3-30, 4-137 - 4-139, Appendix C.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: BLM Fails to Explain Why Special Management is Necessary to Protect and Prevent Relevant and Important Resources When a nominated area meets the relevance and importance criteria for each ACEC, the BLM must then consider whether “special management” is required to “to protect and prevent irreparable damage to important historic, cultural, or scenic values; fish, wildlife, and plant resources, or other natural system or processes.” 43 U.S.C. §1702(a); see also BLM Manual 1613, Section 12 (Sept. 29, 1988). The BLM ignores this portion of the ACEC analysis and fails to consider how the relevant resources are already protected under existing statutes, regulations, and/or existing management actions. The BLM has layered ACEC designations on top of

WSA designations throughout the planning area under the Proposed RMPA. According to BLM's own policies, "[a]n ACEC designation will not be used as a substitute for wilderness suitability recommendations." BLM Manual 1613, Section 06 (Sept. 29, 1988). While ACECs may be designated within WSAs, "[i]f an ACEC is proposed within or adjacent to a [WSA], the RMP or plan amendments shall provide a clear description of the relationship of the ACEC to the recommendations being made for the WSA." *Id.* at Section 33.D. One thing to consider when determining the appropriate management prescriptions for a Proposed ACEC is if the area includes "an area recommended for designation (or already designated)" and if the "management under the other designation afford sufficient protection of potential ACEC values." *Id.* at Section 22. A.6. If the ACEC designation is proposing the same management and restrictions as a WSA, then there is no reason for an overlapping ACEC designation. By law, WSAs are closed to development. 43 U.S.C. § 1782(c). The BLM fails to explain why the ACEC designation is necessary to protect the underlying resource value when it is already protected by the WSA designation. The Coalition objects to any ACEC designations that overlap with existing WSAs. See RMPA and FEIS at Maps 2-40. The Coalition also objects to any ACEC designations that border WSAs to the extent the BLM is using it as substitute for expanding the current WSAs' boundaries.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The other resource values requiring protection in the ACEC analysis include areas of cultural significance, such as rock art panels, petroglyphs, and other geological features, as well as historic trails. While the Coalition does not object to the relevance and importance of some cultural and historic sites, it does not agree with the expansive acreage proposed under the Proposed RMPA (i.e. Steamboat Mountain ACEC). The BLM fails to recognize the statutes that protect these types of sites, including the Archaeological Resources Protection Act ("ARPA"), 16 U.S.C. §§ 470aa-470mm, and the National Historic Preservation Act ("NHPA"), 54 U.S.C. §§ 300101-300315; 36 C.F.R. Part 800. In addition, the BLM proposes to manage rock art sites and their surrounding viewshed "to protect their cultural and historical values" by prohibiting surface occupancy, placing a no surface occupancy for fluid minerals, designated it as a right-of-way exclusion area, etc. RMPA and FEIS at 2-55 (Mgmt. Action #5100). The BLM must show additional special management is required to protect these resources or that the current laws are inadequate to protect them before designating them as ACECs. As noted *supra* Section III.a.i, the Steamboat Mountain ACEC and the Wind River ACEC are proposed for designation, in part, to protect national historic trails. However, historic trails and wagon roads are also protected by the NHPA and do not necessitate a large swath of land to be designated as an ACEC to protect the trails themselves. Pursuant to the National Register Bulletin #15, a trail must also retain its integrity to be considered in the National Register of Historic Places. A trail must still be well-established or still visible, and not obscured by modern use. For those that are visible, a ¼ mile buffer on each side of the trail is only warranted pursuant to the National Trails System Act ("NTSA"). See e.g. 16 U.S.C. § 1244(a)(3) ("The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail."). A ¼ mile buffer on each side of the trail is also consistent with how the neighboring BLM field offices manages historic trails, a point the BLM fails to disclose in this FEIS. See BLM Manual 6280 at 4-7 (Sept. 14, 2012) ("National Trail management corridor boundaries should be compatible with neighboring BLM Field Offices and other National Trail land managers and should edge-match, were possible.").

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The BLM also fails to address why both an ACEC designation and an overlapping National Trails Management Corridor are necessary. The Coalition does not agree with either one, but if the BLM is going to establish a National Trails Management Corridor it does not need to overlap it with an ACEC designation. The proposed Corridor already includes a controlled

surface use restriction for fluid minerals, is a right-of-way avoidance, and is designated as VRM Class II. RMPA and FEIS at 2-89 (Mgmt. Actions #7003, 7004).

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: Finally, by concluding that sage grouse management is outside of the scope of this Proposed RMPA and FEIS the BLM ignores an important part of the ACEC analysis - whether ACEC designation is necessary under the current and proposed framework for management of Greater Sage Grouse and its habitat across all public lands. The entire purpose of the RMPA for Greater Sage Grouse is to provide sufficient protection of the species and its habitat to prevent the listing of this species, and it currently is protected by the 2015 RMPA. The BLM fails to discuss this important aspect of its management of the public lands and also ignores the protections the State of Wyoming has put in place pursuant to Executive Order 2019-3. Additional land management restrictions through the designation of the Steamboat Mountain and South Wind River ACECs is unnecessary to protect Greater Sage Grouse.

PacifiCorp dba Rocky Mountain Power

John Hutchings

Issue Excerpt Text: BLM selected Alternative B for MA #4609, which proposes new ACECs for rare plants that already have Special Status and associated protections. See PacifiCorp's original comments: Alternatives A, B, and D of MA #4609 fail to follow NEPA as they would allow BLM to designate new ACECs without public input. The protections of rare plants are already addressed in MA #4602. For these reasons, PacifiCorp recommends that the BLM adopt Alternative C of MA #4609.

Petroleum Association of Wyoming & Western Energy Alliance

Colin McKee

Issue Excerpt Text: The Associations protest the process the BLM used to justify new and expanded ACECs. The BLM predetermined its desire to add protectionist measures to a substantial number of acres in the RSFO and then set out to accomplish this goal. The National Environmental Policy Act, instead, is intended to lead the BLM to a decision based on consideration of anticipated impacts from various actions and incorporating requirements from other federal laws. The backwards process employed here has resulted in an unsubstantiated increase in ACEC acreage from 286,470 currently to 935,135 acres under the Preferred Alternative. The BLM neglected a simple, yet profound, responsibility - to disclose whether ACECs and their associated additional management are even warranted. The BLM even admits in the PRMP that it intentionally did not consider GSRG management³: Greater Sage-grouse management, including all actions related to management of Priority Habitat Management Areas and General Habitat Management Areas, are being addressed under separate ongoing Amendment(s) and are not included as planning issues for this document. All management actions, including restrictions for mineral development, that are currently being implemented through prior Amendment (Ex. 2015) are outside the scope of this planning effort and are not analyzed. The fact that the BLM is going through a separate RMP revision process does not negate the BLM's responsibility to consider existing management actions for GSRG and their effectiveness in protecting those values. It seems premature that the BLM would determine additional protections are needed for GRSR before they even know what their revised GRSR RMPs will require. One factor of prominent consideration through that RMP revision process is the health of the species. While cyclical, the Wyoming Game & Fish Department has just released 2024 information showing lek populations have increased by 33 percent (Figure 2). The species is on an upward trend and there is good evidence to suggest that the management requirements surrounding this species in Wyoming are an important contributor to that trend. Figure 2 - WGFDD Lek Count Data The BLM likewise provided no analysis of why the additional management actions proposed are needed to protect resource values. These primarily include no additional oil and natural gas leasing and ROW

exclusion areas surrounding the entire area. The Associations wonder why these blanket, broad restrictions necessary, beyond what currently exists, to protect GRSG and ungulate migration? The BLM's lack of analysis and disclosure of this information is a violation of their responsibilities under Federal Land Policy & Management Act.

Mountain States Legal Foundation

Robert Welsh

Issue Excerpt Text: The Proposed Revisions Violate the Multiple-Use Requirement in FLPMA. In our original comment on the proposed Plan, we explained that while Congress granted the Bureau authority to manage public lands, of which it retains a staggering 46.7% in surface ownership and 42.9% in subsurface mineral estates within Wyoming, it must do so in a way that is “balanced,” promotes multiple uses, and considers Americans’ needs for, among other things, rangeland and mineral development. 43 U.S.C. § 1702(c). But contrary to law, the Bureau proposes to drastically expand its use of ACECs to write these other uses out of FLPMA in the name of “anti-use,” thereby taking more public lands away from the public. Of course, BLM cannot revise FLPMA and write the multiple-use requirement out of the law, as we explained in our comment letter. In response to these concerns, the Bureau merely directs commentors to the Planning Criteria section of the Proposed Resource Management Plan (Final EIS), where it superficially declares that it followed FLPMA during the planning process. See Final EIS 1-4. While BLM did reduce the overall acreage of ACEC-designated land from its original 1.6 million after receiving our comment letter, it only did so to now cover approximately 935,000 acres. Given that the status quo of ACEC designation stands at 286,000 acres, the addition of 650,000 acres is still an unlawful, unreasonable attempt to take public lands away from the public. Furthermore, once lands are chosen as ACECs, they are unlikely to ever be undesignated as an ACEC. Karin P. Sheldon & Pamela Baldwin, *Areas of Critical Environmental Concern: FLPMA’s Unfulfilled Conservation Mandate*, 28:1 *Colo. Nat. Resources, Energy & Env’tl. L. Rev.* 1, 32 (2017). Even in situations where it is possible to obtain a permit to use federal land, permit-requesters must generally wait for three to eight years before making any progress. This taking of public lands away from the public via the prioritization of “anti-use” values over other lawful, codified uses contravenes FLPMA’s multiple-use requirement. It is unlawful, and BLM should readdress it rather than complete its current proposal.

Wyoming County Commissioners Association

Triston Rice

Issue Excerpt Text: One of the primary issues raised by the WCCA is the lack of specific justification for these ACEC designations. According to federal regulations, ACECs must require special management to prevent irreparable damage to important values 43 CFR § 1610.7-2. However, the BLM has not provided sufficient evidence that irreparable damage is likely such that special management is necessary for any of the proposed ACECs. This is particularly true for areas where existing protections, such as wilderness study areas and Greater sage-grouse protections are already in place.

Wyoming County Commissioners Association

Triston Rice

Issue Excerpt Text: NEPA also requires that ACEC designations are determined by the State Director, taking into consideration “The value of other resource uses in the area;” 43 CFR 1610.7-2G)(1)(ii) and “The relationship to other types of designations and protective management available” 43 CFR 1610.7-2(j)(1)(iv). Considering the inadequacies within the socioeconomic portion of the FEIS and the lack of any reference to other resource use values, it is clear this analysis has not taken place. The BLM’s failure to demonstrate a clear need for additional protection raises questions about the rationale behind these designations.

Corey Roberts

Issue Excerpt Text: Environmental Concern Violates Regulation and Policy An ACEC is defined as “areas within the public 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 safety from natural hazards.” 43 U.S.C. § 1702(a). To qualify as an ACEC, an area must first have “relevance,” meaning it possesses “a significant historic, cultural, or scenic value; a fish or wildlife resource or other natural system or process; or natural hazard.” 43 C.F.R. § 1610.7-2(a)(1). Second, it must have “importance,” meaning the relevant values identified in the first step must have “substantial significance and values.” 43 C.F.R. § 1610.7-2(a)(2); see also BLM Manual 1613, Section 11.B. To meet the “importance” threshold, the area must have “more than locally significant qualities...compared to any similar resource,” have qualities that make it fragile, rare, or irreplaceable, or been recognized as warranting protection to satisfy national priority concerns. BLM Manual 1613, Section 11.B.1. Third, the nominated area must require “special management” “to protect and prevent irreparable damage to important historic, cultural, or scenic values; fish, wildlife, and plant resources, or other natural system or processes.” 43 U.S.C. §1702(a). In making this three-step determination, BLM must consider whether “the values of other resources outweigh the need for protection of the important and relevant values.” BLM Manual 1613, Section 22.A.2; see also *Rocky Mountain Oil & Gas Assn v. Watt*, 696 F.2d 734, 738 (10th Cir. 1982) (“The FLPMA requires Interior to recognize competing values” where “public lands are to be managed in recognition of ‘the Nations need for domestic sources of minerals, food, timber, and fiber from the public lands.’” (quoting 43 U.S.C. §1701(a)(12))). The analysis is dynamic and depends entirely on the resources being compared, the public interest, and the value of, for example, mineral resources that may be foregone. The BLM must also base its analysis on current inventories, data, and environmental studies for the public lands and their resources. 43 U.S.C. § 171 l(a); see 40 C.F.R. § 1502.23 (“Agencies shall ensure the profession integrity, including scientific integrity, of the discussions and analyses in environmental documents. Agencies shall make use of reliable existing data and resources.”); see also BLM Handbook 1790-1, Section 6.7.2 (Jan. 30, 2008). i. Proposed ACEC’s Relevance and Importance Not Supported by a Rational Explanation The County objects to the relevance and importance analysis in Appendix C of the FEIS as incomplete, without basis in fact, and contrary to prior decision in the Green River RMP. In particular, the County objects to the excessive expansion of the Steamboat Mountain ACEC and the new designation of the South Wind River ACEC. These two ACECs combined total for more than half (720,185 acres) of the total acreage proposed for ACEC designation in the Proposed RMPA. RMPA and FEIS at V-29. ACEC designations were not intended to result in the exclusion of large swaths of land from multiple use but rather only protect those specific areas of public land where special management is needed to protect important resources. While some portions of the Steamboat Mountain ACEC and South Wind River ACEC may warrant some level of protection, there is no basis for proposing to designate over 720,000 acres of public land as an ACEC. The major issue with the BLM’s analysis of these areas’ “relevance” and “importance” is it ignores the fact that it had previously determined a large majority of the areas did not warrant ACEC designation in the Green River RMP. There is no discussion in the FEIS as to what has changed over time or why these areas need more restrictive special management to protect the resources of Concern. In particular, the Red Desert Watershed Management Area was found to not contain values that meet relevance and importance criteria under the Green River RMP. RMPA and FEIS at 2-100. However, in Appendix C, the BLM now concludes without any explanation that the western portion of this Management Area now meets the relevance and importance criteria, and it has been proposed as part of the Steamboat Mountain ACEC. at 2-125, C-34 - C-35, Map 2-40. The BLM similarly includes the Steamboat Mountain Management Area and the West Sand Dunes Archaeological District Management Area into the proposed Steamboat Mountain ACEC without any discussion as to why the previous management designations were failing. at 2-125, Map 2-40. The South Wind River ACEC suffers from a similar problem. The northern portion of this proposed ACEC contains 171,172 acres of land

that was previously managed as the western unit of the Wind River Front Special Recreation Management Area (“SRMA”). at 2-85, Map 2-40. Under the Green River RMP, the SRMA emphasized “enhancing recreation opportunities and to focus management on areas with high recreation values or areas where there are conflicts between recreation and other uses.” at 2-84. The BLM does not explain why this area should no longer be managed to protect the areas high recreational values and why more restrictive management is necessary to protect other resources.

Corey Roberts

Issue Excerpt Text: BLM Fails to Explain Why Special Management is Necessary to Protect and Prevent Relevant and Important Resources When a nominated area meets the relevance and importance criteria for each ACEC, the BLM must then consider whether “special management” is required to “to protect and prevent irreparable damage to important historic, cultural, or scenic values; fish, wildlife, and plant resources, or other natural system or processes.” 43 U.S.C. §1702(a); see also BLM Manual 1613, Section 12. The BLM ignores this portion of the ACEC analysis and fails to consider how the relevant resources are already protected under existing statutes, regulations, and/or existing management actions. The BLM has layered ACEC designations on top of WSA designations throughout the planning area under the Proposed RMPA. According to BLM’s own policies, “[a]n ACEC designation will not be used as a substitute for wilderness suitability recommendations.” BLM Manual 1613, Section 06. While ACECs may be designated within WSAs, “[i]f an ACEC is proposed within or adjacent to a [WSA], the RMP or plan amendments shall provide a clear description of the relationship of the ACEC to the recommendations being made for the WSA.” at Section 33.D. One thing to consider when determining the appropriate management prescriptions for a Proposed ACEC are, if the area includes “an area recommended for designation (or already designated)” and if the “management under the other designation afford sufficient protection of potential ACEC values.” at Section 22.A.6. If the ACEC designation is proposing the same management and restrictions as a WSA, then there is no reason for an overlapping ACEC designation. By law, WSAs are closed to development. 32 U.S.C. § 1782(c). The BLM fails to explain why the ACEC designation is necessary to protect the underlying resource value when it is already protected by the WSA designation. The County objects to any ACEC designations that overlap with existing WSAs. See RMPA and FEIS at Maps 2-40. The County also objects to any ACEC designations that border WSAs to the extent the BLM is using it as substitute for expanding the current WSAs’ boundaries. The other resource values requiring protection in the ACEC analysis include areas of cultural significance, such as rock art panels, petroglyphs, and other geological features, as well as historic trails. While the County does not object to the relevance and importance of some cultural and historic sites, it does not agree with the expansive additional acreage proposed under the Proposed RMPA (i.e. Steamboat Mountain ACEC). The BLM fails to recognize the statutes that protect these types of sites, including the Archaeological Resources Protection Act (“ARPA”), 16 U.S.C. §§ 470aa-470mm, and the National Historic Preservation Act (“NHPA”), 54 U.S.C. §§ 300101-300315; 36 C.F.R. Part 800. In addition, the BLM proposes to manage rock art sites and their surrounding viewshed “to protect their cultural and historical values” by prohibiting surface occupancy, placing a no surface occupancy for fluid minerals, designated it as a right-of-way exclusion area, etc. RMPA and FEIS at 2-55 (Mgmt. Action #5100). The BLM must show additional special management is required to protect these resources or that the current laws are inadequate to protect them before designating them as ACECs.

Corey Roberts

Issue Excerpt Text: Finally, by concluding that sage grouse management is outside of the scope of this Proposed RMPA and FEIS the BLM ignores an important part of the ACEC analysis - whether ACEC designation is necessary under the current and proposed framework for management of Greater Sage Grouse and its habitat across all public lands. The entire purpose of the RMPA for Greater Sage Grouse is to provide sufficient protection of the species and its habitat to prevent the listing of this species, and it currently is protected by the 2015 RMPA. The BLM fails to discuss the importance aspect of its management of the public lands and also ignores the protections the State of

Wyoming has put in place. Additional land management restrictions through the designation the Steamboat Mountain and South Wind River ACECs is unnecessary to protect Greater Sage Grouse. The BLM must correct the substantial failure of addressing whether special management prescriptions are necessary to protect the resource values identified within the Proposed ACECs, and address the fact that many of these areas are already protected by existing laws or other designations.

Corey Roberts

Issue Excerpt Text: Despite failing to explain why the BLM is making such a dramatic shift in management for a large portion of land in the northern portion of the field office, it has also failed in adequately explain each identified resources overarching relevance and importance. To begin, the BLM identifies specific cultural resources and sites it claims warrant protection including the Continental Divide National Scenic Trail, the Pinnacles Geologic Feature, Indian Gap, Indian Gap Trail, and Tri-territory Historic Site for the Steamboat Mountain ACEC. See at C-34 - C-35, C-50 - C-51. The South Wind River ACEC similarly points out National Historic Trails. at C-39- C-40. The historic trails travel through only a portion of the proposed ACECs. Compare at Map 3-7 with Map 2-40. The cultural sites are also limited in size and were already protected by previous designations (i.e. Oregon Buttes ACEC, Pinnacles ACEC, Steamboat Mountain ACEC (original designations), White Mountain Petroglyphs ACEC, and Wilderness Study Areas). See at 2-60 - 2-61, 2-105, 2-127 - 2-128; Compare Maps at 2-36 and 3-7 with Map 2-40. The BLM cannot expand the ACEC designations to protect the same resources that were already protected under the Green River RMP. The only other relevant and important resource the BLM references in Appendix C for these two ACECs is big game crucial winter range, big game parturition habitat, the Sublette mule deer migration corridor, and Greater Sage Grouse Priority Habitat Management Areas (“PHMA”). at C-34 - C-35, C-38 - C-40, C-50 - C-51. However, there is no discussion about how the wildlife habitat within the Rock Springs Field Office is any more significant or important that habitat found in the Little Snake, White River, Pinedale, Kemmerer, or Vernal Field Offices, or any habitat found in any other state. Nor has the BLM been able to explain how the wildlife habitat is so sensitive, rare, or irreplaceable compared to any other habitat found across BLM’s public lands. Wildlife habitat in the Rock Springs Field Office does not have “special worth, consequence, meaning, distinctiveness, or cause for concern, especially compared to any similar resource.” BLM Manual 1613, Section 11(B)(l). The BLM’s decision to designate the two ACECs to protect in part the big game migration corridor is also contradictory to its decision to not designate the entire proposed Big Game Migration Corridor as an ACEC. RMPA and FEIS at 2-131, C-56- C-58. While portions of this proposed ACEC overlap with the South Wind River and Steamboat Mountain ACEC, there were other portions located outside of these designations as well. Compare at C-58 with Map 2-40. In addition, the BLM is concluding in the Greater Sage Grouse Proposed RMPA that no PHMA or other sage grouse habitat areas warrant ACEC designations.

Corey Roberts

Issue Excerpt Text: The Steamboat Mountain ACEC and the Wind River ACEC are proposed for designation to protect national historic trails. However, historic trails and wagon roads are also protected by the NHPA and do not necessitate a large swath of land to be designated as an ACEC to protect the trails themselves. Pursuant to the National Register Bulletin #15, a trail must also retain its integrity to be considered in the National Register of Historic Places. A trail must still be well-established or still visible, and not obscured by modern use. For those that are visible, a ¼ mile buffer on each side of the trail is only warranted pursuant to the National Trails Act. See e.g. 16 U.S.C. § 1244(a)(3) (“The authority of the Federal Government to acquire fee title under this paragraph shall be limited to an average of not more than ¼ mile on either side of the trail.”). A ¼ mile buffer on each side of the trail is also consistent with how the neighboring BLM field offices manages historic trails, a point the BLM fails to disclose in this FEIS. See BLM Manual 6280 at 4-7 (Sept. 14, 2012) (“National Trail management corridor boundaries should be compatible with neighboring BLM Field Offices and other National Trail land managers and should edge-match, were possible.”). The BLM

also fails to address when both an ACEC designation and an overlapping National Trails Management Corridor are necessary. The County does not agree with either one, but if the BLM is going to establish a National Trails Management Corridor it does not need to overlap it with an ACEC designation. The proposed Corridor already includes a controlled surface use restriction for fluid minerals, is a right-of-way avoidance, and is designated as VRM Class II. RMPA and FEIS at 2-89.

Corey Roberts

Issue Excerpt Text: The BLM completely ignores this contradictory conclusion by finding that Greater Sage Grouse PHMA is a basis for designating the South Wind River and Steamboat Mountain ACECs. The expansion of the Steamboat Mountain ACEC and the establishment of the South Wind River ACEC was based on a flawed analysis that sought to provide over expansive protection to specific cultural sites and to protect wildlife habitat that is not more than local significant or that could not be considered rare or sensitive. The BLM must reevaluate these proposed ACECs and either completely drop them from designation or otherwise continue managing the areas as previously done under the Green River RMP.

Wyoming Stock Growers Association

Jim Magagna

Issue Excerpt Text: BLM Regulation (Sec.1610.7-2) regarding the designation and management of ACECs identifies three criteria that must be met for a designation: Relevance, Importance, and Special Management Attention. “Special Management Attention” is defined as management prescriptions that protect and prevent irreparable damage to the relevant and important values”. It is WSGA’s position that these values have been protected over decades under current management and can continue to be protected through careful consideration of project-specific authorizations. The BLM Regulation further identifies additional factors that the State Director shall use in determining which ACEC’s to designate. These include “The value of other resource uses in the area.” and “The relationship of other types of designations and protective management available.” WSGA does not find that these criteria have been given full consideration. The Steamboat Mountain Area already provides protection for key values through the designation of three Wilderness Study Areas. In the South Wind River Area, the State of Wyoming has provided key protections through the designation of the Hoback to Red Desert Mule Deer Migration Corridor and the designation of Sage Grouse Critical Habitat. The regulations further provide direction that ACEC’s shall be administered in a manner to “only allow casual use or uses that will ensure the protection of the relevant and important values.” Also included is direction to “prioritize acquisition of inholdings within ACEC’s and adjacent or connecting lands identified as holding relevant and important values related to the designated ACEC.” It is WSGA’s position that the laws and regulations governing the designation of ACEC’s are intended to target and protect small areas with unique features and values. ACEC designation is not appropriate for large acreages that should remain open to multiple use management with careful consideration of resource values and appropriate uses on a site-specific basis. We request that the Steamboat Mountain ACEC be returned to its original acreage as shown in Alternative A and that there be no ACEC designation for the South Wind River Area.

Campbell, Converse, Crook, Niobrara, and Weston Counties

Fred Devish

Issue Excerpt Text: The Counties strongly object to the BLM’s proposed designation of 935,135 acres as ACECs in the RMP. The BLM’s response to concerns fails to show compliance with the law, justify the extensive scope of these designations, or the benefit of designating new ACECs. Instead, like other comments, their responses are generalized and reference relatively unaltered sections of the FEIS relying on vague references to baseline data and generalized statements about the need for protection. This response overlooks the critical point that many of these areas already benefit from existing protections, making the ACEC designations redundant and unnecessary. Furthermore, in

most all instances the ACEC special designations are not supported by the local county land use plans and nowhere does BLM address those inconsistencies. For example, comment #13953-15 specifically identifies the requirement in 43 CFR § 1610.7- 2(b), that the BLM “shall publish a notice in the Federal Register listing each ACEC proposed and specifying the resource use limitations, if any, which would occur if it were formally designated.” The BLM’s response does not respond to the comment, instead providing a citation to a section that does not address the comment.

Campbell, Converse, Crook, Niobrara, and Weston Counties

Fred Devish

Issue Excerpt Text: One of the primary issues raised by the Counties is the lack of specific justification for these ACEC designations. According to federal regulations, ACECs must require special management to prevent irreparable damage to important values 43 CFR § 1610.7-2. However, the BLM has not provided sufficient evidence that irreparable damage is likely such that special management is necessary for any of the proposed ACECs. This is particularly true for areas where existing protections, such as wilderness study areas and Greater sage-grouse protections are already in place. NEPA also requires that ACEC designations are determined by the State Director, taking into consideration “The value of other resource uses in the area;” 43 CFR 1610.7-2(j)(1)(ii) and “The relationship to other types of designations and protective management available” 43 CFR 1610.7-2(j)(1)(iv). Considering the inadequacies within the socioeconomic portion of the FEIS and the lack of any reference to other resource use values, it is clear this analysis has not taken place. The BLM’s failure to demonstrate a clear need for additional protection raises questions about the rationale behind these designations.

Campbell, Converse, Crook, Niobrara, and Weston Counties

Fred Devish

Issue Excerpt Text: The BLM has failed to assign special management attention to the specific relevance and importance values allegedly associated with each designation. Without an assignment of special management attention, it was impossible for the BLM to evaluate whether it would be possible to prevent irreparable harm. There is no analysis or discussion about irreparable harm in Appendix C, 4.21 “Special Designations,” or 2.2.6. “Management Actions,” or 3.22.1 “Special Designation - Areas of Critical Environmental Concern and Other Management Areas.” Beyond citations to Section 103(a) and providing a conclusory statement that maintaining existing ACEC designations “will ensure special management attention,” there is no reference to special management attention for new ACEC designations. The BLM’s insistence on responding to comments by pointing commenters back to sections that do not contain any analysis is absurd. In conclusion, the Counties maintain that the BLM has not provided a sufficient basis for the expansive ACEC designations in the Rock Springs RMP. Many of the proposed ACECs duplicate existing protections, provide no discussion of management attention, lack evidence of irreparable harm, and undermine state-led conservation efforts. We request that the BLM reconsider the scope of these designations and provide a more thorough analysis of the economic and environmental impacts before moving forward with the RMP. Finally, BLM must better align with local county natural resource management plans when looking at additional designations that have negative impacts on our local communities and the State.

Essential Minerals Association

Chris Greissing

Issue Excerpt Text: Finally, the Final RMP/EIS wrongfully promulgates a vast increase in acres to be designated as Areas of Critical Environmental Concern (ACECs). Specifically, the Preferred Alternative would designate 935,135 acres as ACECs, an increase of 226 percent beyond current management practices.⁶ This immense growth in ACEC acreage is far beyond the intent of BLM’s authority to designate them under the Federal Land Policy and Management Act (FLPMA). Congress intended ACECs to be designated only to conserve the most important of resources while still upholding FLPMA’s objective of managing resources for sustained yield of multiple uses. However,

since the beginning of the Biden Administration, BLM has shown a prevalence for vastly enlarging its application of this authority, and this RMP/EIS is yet another example. BLM-WY's designation of so many more acres seems intended to simply lock those lands away from responsible development, including trona mining done by EMA members. ACECs were never intended to be used as an arbitrary tool to forestall non-conservation land uses such as mining, yet that is what BLM-WY is attempting to do in this RMP/EIS. This decision should be reversed and replaced with more commonsense practices that provide true sustained yield of multiple uses for the varied resources in the planning area.

Little Sandy Grazing Association

Ken Moon

Issue Excerpt Text: Third, we explained in our draft letter that in order to designate an ACEC, FLPMA requires that the BLM explain why an ACEC is necessary to “prevent irreparable damage” to natural resources. The BLM has failed to do this in its nearly 2,000 page final EIS and RMP. Grazing has happened on the landscape for centuries and the BLM must explain why grazing and grazing improvement projects pose a threat of irreparable damage to the land or it must rescind the ACECs on our allotments. This would also amount to a NEPA violation.

Alliance for Historic Wyoming

Megan Stanfill

Issue Excerpt Text: BLM failed to comply with the Federal Land and Policy Management Act's direction to prioritize Areas of Critical Environmental Concern regarding the South Pass Historic Landscape ACEC. In the Proposed RMP and Final EIS, BLM has reduced the size of the South Pass Historic Landscape Area of Critical Environmental Concern (ACEC), relative to the acreage considered in the Preferred Alternative in the draft RMP. Additionally, the oil and gas stipulations for this ACEC fail to protect the historical resource; are inconsistent with the management for other ACECs in the Proposed RMP; and are misaligned with current agency direction for oil and gas leasing. FLPMA defines areas of critical environmental concern as “areas within the public 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.”¹ FLPMA therefore directs BLM to “give priority to the designation and protection of [ACECs]” during land use planning.² The BLM has not met this mandate relative to the South Pass Historical Landscape ACEC by proposing to reduce the acreage included and by proposing management that does not protect the resource.

Alliance for Historic Wyoming

Megan Stanfill

Issue Excerpt Text: In particular, we are concerned about degradation from the decision to not retain the Cedar Canyon Area of Critical Environmental Concern (ACEC) or designate the Monument Valley ACEC, both of which will have unacceptable negative impacts on natural and cultural resources that could be avoided. These two landscapes host significant cultural and historical resources. These areas should be protected as ACECs from resource extraction, development, and irresponsible recreation in the Record of Decision in order for BLM to meet the mandates outlined in FLPMA regarding the prioritization of ACECs.

Alliance for Historic Wyoming

Megan Stanfill

Issue Excerpt Text: The principles of multiple use and sustained yield require BLM to consider conservation-oriented land-use allocations for the following cultural and historic sites. BLM must also prioritize Areas of Critical Environmental Concern. The Federal Land Policy and Management Act (FLPMA) requires BLM to inventory and manage the public lands for multiple uses and sustained yield for the benefit of present and future generations. Section 1701(a)(8) of FLPMA

requires public lands to 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. (emphasis added) Additionally, FLPMA defines areas of critical environmental Concern as “areas within the public 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.”¹ FLPMA therefore directs BLM to “give priority to the designation and protection of [ACECs]” during land use planning.² The BLM has not met this mandate relative to the Cedar Canyon ACEC and proposed Monument Valley ACEC by not retaining Cedar Canyon and its protective management and not designating Monument Valley. We have concerns about the overall adverse effects to historical and cultural resources from management proposed in the Rock Springs Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement. We believe these effects can be avoided and BLM can achieve the mandates listed above through the remedies we discuss. We detail below the management actions that will create unacceptable negative impacts on cultural and historic resources and sites with the integrity to be designated as historic districts on the National Register of Historic Places. Not permanently protecting these culturally significant areas from resource extraction, energy development, irresponsible recreation, and neglect will unavoidably have unacceptable negative impacts on prehistoric and historic resources, as well as cultural landscapes.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM failed to comply with FLPMA’s direction to prioritize the protection of ACECs FLPMA requires BLM to “give priority” to the designation and protection of ACECs, which are areas of public lands that contain outstanding ecological, cultural, natural, or other values.⁶² A. BLM failed to comply with FLPMA’s direction to prioritize the protection of ACECs by leaving designated areas open to development. BLM’s proposed management of ACECs in the Rock Springs Field Office is a major improvement, with new designations and expansions of existing ACECs in critically important landscapes. We applaud the designation of the South Wind River ACEC and the expansion of the Steamboat Mountain ACEC in particular. However, decisions for several ACECs are unjustified and indefensible given BLM’s mandate to prioritize the protection of ACECs. Specifically, management actions would leave several ACECs open to oil shale leasing and conventional oil and gas development.

National Mining Association

Katie Sweeney

Issue Excerpt Text: Importantly, where ACECs are considered to protect resources values, the statutory text requires BLM to “prevent irreparable damage” to the identified resource values.⁴⁹ The courts have held that short-term disturbances of these resources, which do not cause irreparable damage, are permissible.⁵⁰ Within the planning process, FLPMA directs the Secretary to prioritize the “designation and protection” of ACECs. The inclusion of the term “protection” means that the priority status given to ACECs does not end with designation; it continues at the management stage within the multiple use framework. Thus, ACECs should be managed according to multiple-use, and priority should be given to the special management practices that apply. As the BLM stated in its original ACEC guidelines: To the extent that any otherwise appropriate use may take place within an ACEC without damaging or endangering an environmental resource that is the reason for ACEC designation, or without endangering life or property, such a use may be permitted as long as that use is consistent with the special management requirements of the ACEC.⁵¹ Thus, specific management prescriptions for a designated ACEC should not impinge other uses of the public lands except to the extent necessary to protect against irreparable damage to, or to mitigate hazards from, the unique environmental circumstances that warranted ACEC designation. The proposed RMP fails to

appropriately address NMA's concerns and makes speculative determinations of relevance and importance for ACEC determinations. For example, the superficial rationale for an ACEC determination of relevance is that "the area is a focal landscape, meaning the eye is automatically drawn to the feature and that feature presents a striking difference from the surrounding area providing a higher than normal degree of visual variety."⁵² Another ACEC's poorly reasoned rationale for the importance value is "this is an undeveloped area where retaining the visual setting has a high value."⁵³ To restrict mining activities because of a focal landscape or a high visual setting runs afoul of FLMPA's multiple use mandate.

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: According to the most recent publicly available data regarding ACEC's from the BLM, the average size of an ACEC in the lower 48 states is, 11,464 acres. The outlier is Alaska that has larger ACEC designations because like Wyoming, Alaska is exempt from the Antiquities Act therefore we are seeing ACEC's being used by the agency to create de facto national monuments. Even incorporating Alaska's ACEC's, the average acreage is 24,870. The average size of the ACEC designations within the Rock Springs RMP is 77,928 acres. This is clearly a land grab. There is no evidence to support that Steamboat Mountain ACEC needs to increase from 47,280 acres to 439,081 acres. The designation of an ACEC under the Federal Land Policy and Management Act (FLPMA) (Section 103(a)) requires that the area meet specific criteria for relevance and importance regarding the protection of environmental, cultural, scenic, or other significant values. FLPMA itself does not provide a detailed process for designating ACECs, it establishes the authority for the BLM to do so. The specific criteria for ACEC designation are further defined through the BLM's land use planning regulations. According to these regulations, areas must meet the following criteria: Furthermore, ACECs must be manageable in a way that ensures focused and effective protection of these values through special management actions. In evaluating the proposed area of nearly one million acres, it is clear that this extensive landmass does not qualify for ACEC designation based on the following factors: 1. Excessive Boundaries: The proposed area encompasses a vast and diverse landscape, which includes a wide variety of land types, resources, and uses. Many of these areas do not meet the specific criteria of relevance and importance for ACEC designation, as they either lack the concentrated resource values requiring special management attention or are already subject to adequate protections under existing land-use regulations. An area of this size dilutes the focus on the specific resources or values that are truly at risk, making it challenging to justify special management across such a broad swath of land. ACEC designation is intended to protect critical and concentrated values, not to serve as a blanket protective status for generalized areas. 2. Lack of Manageability: The nearly one million acres under consideration would require an impractical level of resources and oversight to implement the specialized management actions required for an ACEC. The broader landscape includes areas where management practices for multiple-use activities-such as grazing, recreation, and resource extraction-are compatible with current land-use policies. Designating such a vast area as an ACEC would result in diffuse management priorities and an inability to effectively concentrate resources where they are most needed to protect the essential values identified in smaller, more relevant areas. This would compromise the effectiveness of the ACEC designation, which is intended to be applied surgically to protect fragile or at-risk values. 3. Failure to Meet Criteria for Relevance and Importance: Upon detailed review, it has been determined that significant portions of the proposed area do not exhibit the high-priority resource values required for ACEC designation. While certain portions of the land may contain isolated areas of environmental or cultural importance, these areas can be addressed through more targeted management actions without encompassing the full expanse of nearly one million acres. The core principle of ACEC designation is to apply focused and deliberate management to areas that contain resources of exceptional importance. Broadly designating such a large and diverse area would undermine this principle, as the majority of the proposed land does not meet the high threshold of significance required for ACEC status. Smaller,

more targeted areas that clearly meet the necessary criteria for ACEC status should be considered instead, ensuring that critical resources receive the protection they deserve without overextending management capabilities across excessive and unnecessary boundaries. The nomination of these lands as areas of critical environmental Concern have not been fully disclosed. The BLM should indicate which individuals nominated these areas, for what purpose and the original boundaries and acreage for the public to submit comments on.

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: 43 CFR 1610.7-2(b) states: “Rationale for Decision: The BLM must document the reasons for proposing or not proposing the designation of an ACEC, including why certain lands meet (or do not meet) the criteria...This section ensures that the designation of ACECs is transparent, scientifically supported, and that public input is part of the decision-making process.” The contradictions regarding mineral leasing in Areas of Critical Environmental Concern (ACECs) demonstrate that the ACEC designations may be arbitrary and capricious for several reasons. On one hand, the plan advocates for closing ACECs entirely to mineral leasing to protect sensitive wildlife and plant species, suggesting that these areas require strict protection from development to preserve their ecological integrity. On the other hand, the allowance for limited mineral leasing based on site-specific evaluations undermines the rationale for such stringent protection, implying that development could proceed if deemed acceptable in certain cases. This inconsistency suggests that the decision-making process lacks clear and objective criteria. If ACECs are designated as needing protection due to their environmental sensitivity, any exceptions allowing mineral leasing call into question the validity of the protective designation. The subjective nature of site-specific evaluations introduces uncertainty and inconsistency, making the ACEC boundaries and restrictions appear more discretionary than based on sound environmental principles. This arbitrary approach erodes the credibility of the ACEC designations and indicates that the criteria for protecting these areas are not applied uniformly or with sufficient justification.

Summary:

Protestors stated the BLM violated FLPMA, NEPA, and BLM regulations by eliminating ACECs from designation (particularly the Monument Valley Management Area and Cedar Canyon Area) and not explaining why areas nominated by the public did not qualify for designation. In addition, protestors stated the BLM did not provide enough information to explain how new or expanded ACECs meet the relevant and important criteria when they have not in the past, and did not provide a clear rationale for the need to increase protection beyond existing regulations and boundaries. Protestors requested additional information on wildlife resources that are designated as rare, fragile, sensitive, or irreplaceable in the proposed ACECs when the protestors note this habitat is found across the geographic area.

Protestors also stated the BLM failed to adequately inventory or collect data on existing ACECs or develop a monitoring plan for newly established ACECs. Protestors stated the BLM failed to comply with procedural notice requirements for ACEC designations (43 CFR 1610.7-2(b)), stating that the BLM did not publicly disclose a list of all 27 or more areas proposed for ACEC designation within the RSFO.

Protestors stated the proposed ACEC designations violated FLPMA’s multiple-use mandate by excluding a variety of uses from these vast areas of public land. Other protestors stated the BLM failed to prioritize the protection of ACECs by not providing consistent restrictions to oil and gas development, thereby failing to protect the resource values within.

Protestors stated that the BLM is in violation of the NTSA, as designating such large areas as ACECs for the stated protection of National Historic Trails (NHT) is overly broad and inconsistent with the standard 0.25-mile buffer on either side of the trail as required under the NTSA.

Protestors also stated that the BLM failed to adequately respond to similar comments as above on the Draft EIS regarding ACECs and failed to align with local RMPs.

Finally, protestors stated the BLM is improperly layering ACEC designations on top of WSA designations throughout the planning area, thereby using those designations as a substitute for expanding current WSA boundaries.

Response:

Section 202(c)(3) of FLPMA provides that the BLM give priority to the designation and protection of ACECs in the development and revision of land use plans (43 U.S.C. 1712(c)(3)). FLPMA defines ACECs as “areas within the public 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 safety from natural hazards” (43 U.S.C. 1702(a)). The BLM’s planning regulations address the identification, evaluation, and designation of ACECs during the development and revision of RMPs and during amendments to RMPs when evaluation and designation of ACECs are within the scope of the amendment. As reflected in the regulations and existing policy, the BLM shall review nominated ACECs to determine whether they have relevant and important values and need special management (43 CFR 1610.7-2(a); BLM Instruction Memorandum (IM) 2023-013; and BLM Manual 1613, *Areas of Critical Environmental Concern*).

BLM policy does not require that a potential ACEC’s relevant and important values be protected to the same level or degree of protection in all plan alternatives: “[t]he management prescription for a potential ACEC may vary across alternatives from no special management attention to intensive special management attention” (BLM Manual Section 1613.22.B). Elaborating further, the manual states that “[s]ituations in which no special management attention would be prescribed (and therefore no designation) include...those in which the alternative would necessitate the sacrifice of the potential ACEC values to achieve other purposes” (BLM Manual Section 1613.22.B.1). Therefore, BLM policy allows for one or more RMP alternatives to be analyzed that would potentially affect relevant and important values for potential ACECs in order to evaluate the tradeoffs between management approaches and inform the BLM’s decision about ACEC designation and management in the area. In an approved plan, the BLM identifies all designated ACECs and provides the management direction necessary to protect the relevant and important values for each of the ACECs that are designated. As such, the special management is unique to the designated ACEC to account for the protection of the values in the designated area. The BLM has the discretion to make decisions that account for trade-offs, including trade-offs between protecting the relevant and important values identified in a potential ACEC and allowing for other values, resources, or resource uses within the planning area.

The RSFO PRMP/FEIS analyzed a range of alternatives for the management of potential ACECs within the planning area and analyzed special management attention that would fully protect relevant and important values of each potential ACEC in at least one alternative. All ACEC nominations are included in the RSFO PRMP/FEIS Appendix C with evaluations on the relevance and importance criteria. For a full explanation of the designation process for ACECs, see RSFO PRMP/FEIS Appendix C (pp. C-2 through C-3). In addition, see Chapter 2, Management Actions 7400 through 7570, for the full range of alternatives analyzed in relation to each ACEC nomination (RSFO PRMP/FEIS pp. 2-108 through 2-132). Discussion about the proposed Monument Valley ACEC can be found in Appendix C, Section C.6 (RSFO PRMP/FEIS pp. C-23 through C-24), and Cedar Canyon ACEC acreages can be found in Appendix C, Section C.1 (RSFO PRMP/FEIS pp. C-3 through C-4).

Justification for ACEC designations is not usually a part of the EIS analysis, but an element of the Record of Decision (ROD).

In response to the statement that the BLM did not publicly disclose a list of all 27 or more areas proposed for ACEC designation within the RSFO, the BLM has noted that the “27 or more” number came from local news articles that did not accurately reflect the 20 ACEC nominations within the RSFO PRMP/FEIS (see RSFO PRMP/FEIS Appendix C). Regarding the protest that the BLM did not supply monitoring plans, ACEC Monitoring Plans are site-specific plans that are outside the scope of the PRMP/FEIS.

Protestors stated that the proposed ACEC designations violated FLPMA’s multiple-use mandate. However, ACECs differ from other special designations in that designation does not automatically prohibit or restrict other uses in the area. Special management attention is designed specifically for the relevant and important values, which may vary from area to area. ACECs can be open to oil and gas development, for example, subject to specific management guidelines and restrictions to balance resource extraction with conservation efforts. As stated in RSFO PRMP/FEIS Section 3.22.1, “Pursuant to the FLPMA of 1976, Section 103(a), an ACEC is defined as an area ‘within public 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 safety from natural hazards.’ While an ACEC may emphasize one or more unique resources, other existing multiple-use management can continue within an ACEC, provided the uses do not impair the values for which the ACEC was established” (RSFO PRMP/FEIS p. 3-29). Through the land use planning process, the BLM may close areas within ACECs to specific uses to protect resources and values, and to communicate management priorities concerning which areas should be prioritized for such uses. The RSFO PRMP/FEIS is in full compliance with FLPMA. See RSFO PRMP/FEIS Section 1.4, *Planning Criteria*, for more information on how the BLM meets planning criteria and constraints (RSFO PRMP/FEIS pp. 1-4 through 1-5).

The BLM is in full compliance with other Federal laws and regulations, and as such the BLM’s designation of an ACEC has not violated the NTSA. See Section 1.4 for details on the BLM’s compliance with applicable laws and regulations (RSFO PRMP/FEIS pp. 1-4 through 1-5), and Section 5.1.2 for a discussion of coordination actions with relevant and affected agencies (RSFO PRMP/FEIS pp. 5-3 through 5-5). A range of alternatives was analyzed for Congressionally designated trails (see Section 2.2.6, Management Actions 7000 through 7022, pp. 2-88 through 2-94), and a discussion and analysis of impacts for actions under each alternative are found in Chapter 4 (RSFO PRMP/FEIS pp. 4-137 through 4-140).

Finally, protestors stated the BLM is improperly layering ACEC designations on top of WSA designations throughout the planning area, thereby using those designations as a substitute for expanding current WSA boundaries. ACECs are designated to provide management protection for relevant and important values within a designated area. An area must be evaluated to determine if it meets the relevance and importance criteria identified in 43 CFR 1610.7-2(d)(1)-(2). BLM Manual Section 1613.2.1 provides relevance, importance, and special management attention criteria for consideration. The BLM followed the process outlined in BLM Manual Section 1613.3 for the identification, evaluation, and determination of potential ACECs. Boundaries of ACECs may overlap other designations where necessary to protect relevant and important values, such as wilderness or WSAs (BLM Manual Section 1613.4.4.A). There are no congressionally designated Wilderness areas within the planning area. However, there are currently 13 WSAs mandated by Congress to be protected under Manual 6330 for Lands under Wilderness Review (see RSFO PRMP/FEIS Map 2-36, Volume 1 PDF p. 413) and may be dismissed or designated as Wilderness by Congress at any time. During the time that the Congress considers an area for Wilderness, designated WSAs require special management practices to preserve the wilderness characteristics that make the areas appropriate for designation. Section 603(c) of FLPMA provides direction to the BLM on the management of WSAs

and states that, with some exceptions, “During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness.” This language is referred to as the “non-impairment” mandate. The BLM developed a non-impairment standard used in Manual Section 6330 to meet this mandate. Only Congress can designate or release Section 603 WSAs, and their status will not change as a result of this planning process (RSFO PRMP/FEIS p. 3-30). Changing WSA designations is outside the scope of the PRMP/FEIS.

The BLM adequately considered the protection of relevant and important values in the consideration and nomination of ACECs within the RSFO PRMP/FEIS and is in full compliance with FLPMA, NEPA, and BLM regulations. Accordingly, this protest issue is denied.

Roads and Trails: Revised Statute 2477 Routes

Coalition of Local Governments - Wyoming Eric South

Issue Excerpt Text: In addition, the BLM must provide a map that documents the existing network of designated roads and trails in the Rock Springs Field Office. BLM is required to “document [within the RMP] the decision-making process used to develop the initial network; provide[] the basis for future management decisions; and set[] guidelines for making transportation network adjustments throughout the life of the plan.” BLM Handbook 8242 at p. 17 (Mar. 16, 2012). This includes assessing the current ground transportation linear feature database during the pre-planning stage and producing a “map of the known and existing network of transportation linear features, includes modes of travel.” Id. at pp. 9, 17; BLM Manual 1626, Section 3.5 (Sept. 27, 2016). The Coalition and Sweetwater County provided the BLM with information on the linear network of roads within the County and Rock Springs Field Office, as well as commented on various travel zoning maps provided by the BLM. The BLM’s failure to provide this information in the FEIS is entirely unsupported. The BLM must provide maps of the existing transportation network with the FEIS and allow for the public and cooperating agencies to comment on OHV area designations considering the existing network of designated roads and trails. It is otherwise impossible to determine the effect of the proposed OHV area designations where there is no baseline data provided or mapping of even the known existing roads, routes, and other linear features.

Corey Roberts

Issue Excerpt Text: In addition, the BLM provide a map that documents the existing network of designated roads and trails in the Rock Springs Field Office. BLM is required to “document [within the RMP] the decision-making process used to develop the initial network; provide the basis for future management decisions; and set guidelines for making transportation network adjustments throughout the life of the plan.” BLM Handbook 8242 at p. 17 (Mar. 16, 2012). This includes assessing the current ground transportation linear feature database during the pre-planning stage and producing a “map of the known and existing network of transportation linear features, includes modes of travel.” at 9, 17; BLM Manual 1626, Section 3.5 (Sept. 27, 2016). The County and Sweetwater County provided the BLM with information on the linear network of roads within the County and Rock Springs Field Office, as well as commented on various travel zoning maps provided by the BLM. The BLM’s failure to provide this information in the FEIS is entirely unsupported. The BLM must provide maps of the existing transportation network with the FEIS and allow for the public and cooperating agencies to comment on off-highway vehicle (“OHV”) area designations considering the existing network of designated roads and trails. It is otherwise impossible to determine the effect of the proposed OHV area designations where there is no baseline data provided or mapping of even the known existing roads, routes, and other linear features.

BlueRibbon Coalition**Simone Griffin**

Issue Excerpt Text: The BLM should not impose broad landscape restrictions under this FEIS that could violate the state's rights to R.S. 2477 routes. We are concerned that ACEC designations or VRM classifications could be used in the future to close RS2477 routes. Under Revised Statute 2477 (R.S. 2477), enacted in 1866, states and counties were granted rights-of-way for the construction of highways over public lands not reserved for public use (*Sierra Club v. Hodel*, 848 F.2d 1068, 1080 (10th Cir. 1988)). Although R.S. 2477 was repealed by the Federal Land Policy and Management Act of 1976 (FLPMA), existing rights-of-way established before 1976 were explicitly protected (*Southern Utah Wilderness Alliance v. Bureau of Land Management*, 425 F.3d 735, 740 (10th Cir. 2005)). In *Sierra Club v. Hodel*, the 10th Circuit held that state law, rather than federal law, governs the scope of R.S. 2477 rights-of-way, further affirming the states' authority over these routes (848 F.2d at 1080). The court in *Hodel* emphasized that counties retain rights to roads as they existed prior to FLPMA's enactment (848 F.2d at 1083). Additionally, the court made it clear that R.S. 2477 rights are vested through public use and local government management, meaning state or local authorities should determine the validity and use of these routes. The decision in *Southern Utah Wilderness Alliance v. Bureau of Land Management* underscores that the federal government does not have primary jurisdiction over R.S. 2477 claims, instead directing that such claims must be adjudicated under state law (425 F.3d at 757). By applying state law to R.S. 2477 rights-of-way, Broad landscape restrictions that fail to recognize or protect Wyoming's R.S. 2477 routes could invite legal challenges under both state and federal precedents. Such restrictions might be seen as undermining local government authority to manage roads vital to the state's infrastructure and economic development. As the courts have consistently affirmed, state law governs the establishment, scope, and use of R.S. 2477 rights-of-way, meaning the BLM must be cautious not to curtail these rights through overbroad policies (*Sierra Club v. Hodel*, 848 F.2d at 1080; *Southern Utah Wilderness Alliance v. Bureau of Land Management*, 425 F.3d at 757).

Summary:

Protestors stated that the BLM violated BLM Handbook 8242 and BLM Manual 1626 by failing to provide documentation of its decision-making process for OHV designations in the PRMP and failing to include mapping of the existing network of designated roads and trails in the RSFO in the FEIS, making it impossible to comment on and assess the impact of proposed OHV area designations. Protestors also claim that the BLM fails to recognize the State's rights-of-way (ROW) established by Revised Statute (R.S.) 2477 before 1976.

Response:

The BLM manages travel and transportation through its Comprehensive Travel and Transportation Management program, which aims to provide reasonable and varied transportation routes for access to the public lands and provide areas for a wide variety of both motorized and non-motorized recreational activities. Through this program, the BLM conducts comprehensive planning to determine the best ways to manage roads, trails, and associated areas on public lands. This includes evaluating access needs and protecting natural and cultural resources. Each route on BLM-managed lands is evaluated and designated for specific uses, such as OHVs, hiking, biking, or horseback riding. While the RMP provides a broad framework for land use and designates areas for specific activities, including areas as open, limited, and closed to OHV use, the BLM engages in more detailed travel and transportation management planning at the local level. For specific travel management plans, the BLM undergoes additional decision-making, including NEPA analysis, outside of the RMP process to evaluate the potential environmental impacts of proposed travel routes and designations. This process includes opportunities for public comment, which the BLM considers

during the decision-making process. By conducting detailed travel management planning outside the RMP process, the BLM can more effectively manage access and use of public lands while protecting natural and cultural resources.

There is no active BLM Handbook 8242. However, BLM Handbook 8342, *Travel and Transportation Handbook*, provides detailed guidance for the BLM on managing travel and transportation on public lands to help ensure that travel and transportation on public lands are managed effectively and balance access with conservation and resource protection. It outlines the steps for developing, amending, revising, maintaining, implementing, monitoring, and evaluating travel management plans. Page 17 of this manual recommends that the BLM produce a map of the known and existing network of transportation linear features in an RMP or a Travel Management Area. BLM Manual 1626, *Travel and Transportation Management Manual*, provides detailed policy, direction, and guidance for the comprehensive management of travel and transportation on BLM-administered lands and related waters. Section 3.5 of BLM Manual 1626 recommends that an RMP include a map representing the known inventory of transportation linear features (routes) occurring on BLM-administered public lands or describe a process and schedule to acquire the information necessary to establish a baseline transportation linear feature inventory for use in the local travel and transportation management planning process.

OHV area designations under each alternative are provided in Management Actions 6600 through 6620 in RSFO PRMP/FEIS Chapter 2, which specifies where and when specific areas would be open, limited, or closed to OHV use (pp. 2-86 through 2-88). These OHV designations for each alternative are also provided on Maps 2-31, 2-32, 2-33, 2-34, and 2-35 at the end of Volume 1 of the RSFO PRMP/FEIS (PDF pp. 408 through 412). These maps include existing major roads, routes, and other linear features and public land survey system township boundaries to help orient the reader. Additional travel and transportation management planning in the RSFO including the development of travel management plans will occur in the future at the site-specific level and will include additional NEPA analysis and public involvement.

R.S. 2477, part of the Mining Act of 1866, granted ROWs for the construction of highways across Federal public lands. In 1976, FLPMA repealed R.S. 2477 but preserved existing ROWs. Today, Wyoming and its counties rely on R.S. 2477 to maintain access to these historic routes.

R.S. 2477 rights are determined through a process that is entirely independent of the BLM's land use planning process. The RSFO PRMP/FEIS was founded on an independently determined purpose and need based on resource uses and associated access to public lands and waters. The RMP is not intended to provide any evidence bearing on or addressing the validity of any R.S. 2477 assertions and does not adjudicate, analyze, or otherwise determine the validity of claimed ROWs. The BLM does not adjudicate R.S. 2477 claims as part of this planning effort or its travel management planning. Instead, these claims are determined through court rulings or appropriate administrative procedures. Nothing in the RSFO PRMP/FEIS is intended to extinguish any valid ROWs or alter in any way the legal rights the State and counties may have to assert and protect R.S. 2477 rights.

The BLM complied with NEPA and BLM travel management guidance and did not violate R.S. 2477 or restrict access to R.S. 2477 ROWs. Accordingly, this protest issue is denied.

Visual Resources

Sweetwater County Board of County Commissioners

Keaton West

Issue Excerpt Text: BLM'S VISUAL RESOURCE MANAGEMENT CLASSIFICATION FAIL TO ADEQUATELY CONSIDER THE UNDERLYING RESOURCE ALLOCATION In response to comments on the DEIS, the BLM has made some adjustments to the proposed designation of Visual

Resource Management (“VRM”) Class II under the Proposed RMPA. See RMPA and FEIS at V-24, Map 2-25. However, the VRM Class II designations will still double in size and impact 1.3 million acres across the Rock Springs Field Office. *Id.* at V-24. While the proposed VRM Class II designations are mostly restricted to ACECs and the National Trail Management Corridor, there is still an issue with the BLM failing to recognize the underlying resource allocations that were made under the Green River RMP and resulted in specific leases and development occurring in these areas. See *id.* at Map 3-8 and Map 3-9; see also Attach. 8, Proposed RMPA VRM Designations Map Overlay with Leases. According to BLM’s own policy, “the approved VRM objectives shall result from, and conform with, the resource allocation decisions made in the RMP’s.” BLM Manual 8400, Section 06.A.2 (Apr. 5, 1984); see also *id.* at Section 07.A. In referencing the provision of this BLM Manual, the Interior Board of Land Appeals (“IBLA”) stated: “[i]t seems clear from the foregoing that what the Manual intends is for the resource allocation decisions to determine the VRM classification.” Southern Utah Wilderness Alliance, 144 IBLA 70, 84 (1998) (explaining that VRM classifications must be made consistent with oil and gas leasing decisions and any stipulations provided in the RMP). BLM cannot enforce VRM Classes when they conflict with the underlying resource allocation. *Id.* at 85-87. In addition, the management decision in the RMP must reflect the value of the visual resources, which are driven by information provided in the visual resource inventories (“VRI”). BLM Handbook 8410-1, Section V.1 - V.2 (Jan. 17, 1986). Under IBLA’s holding, the VRM Class II would be largely invalid and unenforceable across the planning area. Under VRM Class II, the objective is “to retain the existing character of the landscape” and “[m]anagement activities may be seen but should not attract the attention of the casual observer.” BLM Handbook 8410-1, Section V.B.2. This is a major issue for those areas that are already leased in the northern portion of the Rock Springs Field Office, because a VRM Class II designation would not allow for the development of the leases and/or could result in non-renewal of the lease. The BLM even recognizes in the FEIS that a VRM Class II area “would be subject to intensive mitigation and, in some case, could [] preclude[]” rights-of-way and other development. RMPA and FEIS at 4-128; see also *id.* at 4-81 (“Because surface disturbance activities in VRM Class II areas may be visible but should not attract the attention of the casual observer, meeting this objective would require relocating certain projects, combining them in areas out of view, or otherwise mitigating them.”), 4-133 - 4-134 (“Managing for VRM would place greater limitations to renewable energy development projects, by restricting the availability and access of development sites and the site clearing/preparation/construction activities (roads, facilities, structures, and transmission/pipe lines) necessary for the generation, collection, and transport of the energy.”). “Little to no visible surface disturbance would occur within approximately 40% of lands managed within VRM Classes I and II.” *Id.* at 4-105. The BLM must reevaluate and revise the VRM Class II designations to exclude those areas under existing mineral leases under the Green River RMP. These revisions should be made based on an updated inventory of the visual values in the planning area.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The BLM failed to recognize the underlying resource allocations that were made under the Green River RMP in areas that are now being proposed for Visual Resource Management (“VRM”) Class II designation in violation of its own policies. See RMPA and FEIS at Maps 2-25, 3-8, 3-9.

Corey Roberts

Issue Excerpt Text: BLM’s VRM Classifications Do Not Address the Underlying Resource Allocation in Violation of its Policies Pursuant to BLM’s policy, “the approved VRM objectives shall result from, and conform with, the resource allocation decisions made in the RMP’s.” BLM Manual 8400, Section 06.A.2 (Apr. 5, 1984); see also at Section 07.A. The Interior Board of Land Appeals (“IBLA”) concluded: “[i]t seems clear from the foregoing that what the Manual intends is for the resource allocation decisions to determine the VRM classification.” Southern Utah Wilderness

Alliance, 144 IBLA 70, 84 (1998) (explaining that VRM classifications must be made consistent with oil and gas leasing decisions and any stipulations provided in the RMP). BLM cannot enforce VRM Classes when they conflict with the underlying resource allocation. at 85-87. In addition, the management decision in the RMP must reflect the value of the visual resources, which are driven by information provided in the visual resource inventories (“VRI”). BLM Handbook 8410-1, Section V.1- V.2 (Jan. 17, 1986). It is the policy of the BLM to “prepare and maintain on a continuing basis an inventory of visual values on all public lands.” BLM Manual 8400, Section 06.A.1; see also 43 U.S.C. §§ 1701(a)(2), 1711(a). The BLM recognized during the Rawlins RMP revision process in 2008 that VRM Class II was inappropriate in the Checkerboard and also agreed to revise its VRM Class II classifications to not affect existing leased areas. See, Rawlins Protest Resolution Report Excerpt at pp. 139-142 (Dec. 24, 2008). The VRM designations were remanded after the protest period to reevaluate the designations and complete an updated inventory of the visual resources within the planning area to comply with its own VRM policy.

Summary:

Protestors stated that the BLM violated its own regulations because its VRM Classifications are inconsistent with BLM policies and regulations and do not address the underlying resource allocation made under the Green River RMP in areas that are now proposed for VRM Class II designation under the RSFO PRMP/FEIS.

Response:

NEPA and FLPMA require the BLM to manage lands in a manner that will protect the quality of scenic values. FLPMA directs the BLM to manage public lands to protect various values including scenic, scientific, historical, ecological, and environmental values (43 U.S.C. 1702(c)). This ensures that public lands are preserved for future generations while balancing multiple uses such as recreation, resource extraction, and conservation.

The BLM considered the resource allocations made under the Green River RMP and Jack Morrow Hills Coordinated Activity Plan under the No Action Alternative (Alternative A) of the RSFO PRMP/FEIS (p. ES-3). RSFO PRMP/FEIS Section 3.14.1, *Existing Visual Resource Management Classifications*, provides acreages for each existing VRM Class (RSFO PRMP/FEIS pp. 3-18). A visual resource inventory was conducted within the RSFO and published in February 2011. The BLM considered a range of alternatives regarding VRM Classes throughout the RSFO, which is provided in Management Action 5400 (RSFO PRMP/FEIS p. 2-85) and visualized on Maps 2-21 through 2-25 (RSFO PRMP/FEIS Volume 1, PDF pp. 398 through 402). Acreages of each VRM Class under each alternative are provided in Table 4-20 (RSFO PRMP/FEIS p. 4-104) and Appendix V, Table 2-9 (p. V-24). Impacts from the proposed management on visual resources under each alternative are provided in RSFO PRMP/FEIS Section 4.15 (pp. 4-101 through 4-105) and Appendix U, Section 4.15 (pp. U-105 through U-110). Under the PRMP, impacts on visual resources from VRM management overall would be similar to those described for Alternative A (the no action alternative) and larger areas of land would be managed as VRM Class II.

The BLM complied with NEPA and FLPMA’s requirement to analyze the environmental consequences/impacts on visual resources in the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

Clean Water Act Violation: Livestock Grazing

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: Additionally, the Clean Water Act and 43 C.F.R. § 4180.1(c) requires that riparian areas and water quality be protected from degradation due to land uses like livestock grazing. Healthy riparian areas are important for water quality and wildlife habitat. According to the FEIS, many grazing allotment riparian habitats in the RSFO are failing to meet health standards, with livestock grazing identified as a significant causal factor (FEIS at G-6). Without a clear mitigation strategy, the BLM is failing to meet its obligations under both the Clean Water Act and FLPMA.

Summary:

Protestors claim that the BLM violated the Clean Water Act and FLPMA by failing to provide a clear mitigation strategy for the grazing allotment riparian habitats in the RSFO that fail to meet health standards.

Response:

FLPMA provides that when preparing land use plans, the BLM must “provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementations plans” such as the Clean Water Act (FLPMA, Section 202(c)(8)). The Wyoming Department of Environmental Quality (WDEQ) and U.S. Environmental Protection Agency (EPA) have primacy with regard to implementation of the Clean Water Act. The BLM has no specific regulatory authority related to use of water or enforcement of water quality laws.

Additionally, FLPMA grants the Secretary of the Interior the authority to make land use planning decisions, taking into consideration multiple use and sustained yield, ACECs, present and potential uses of the land, relative scarcity of values, and long-term and short-term benefits, among other resource values (43 U.S.C. 1711 Section 201(a)). 43 CFR 4100.0-8 provides that the BLM shall manage livestock grazing on public lands in accordance with applicable land use plans. Furthermore, the BLM may designate lands as “available” or “unavailable” for livestock grazing through the land use planning process (BLM Handbook H-1601-1, Appendix C).

Land Health Standards are summarized in Appendix G (RSFO PRMP/FEIS pp. G-1 through G-16) and Section 3.16, *Livestock Grazing Management* (RSFO PRMP/FEIS pp. 3-23 through 3-24). Potential impacts on water quality from livestock grazing management proposed under each alternative are provided in RSFO PRMP/FEIS Section 4.5 (pp. 4-19 through 4-25) and Appendix U, Section 4.5 (pp. U-18 through U-27). Under the PRMP, impacts on water resources from livestock grazing would generally be the same as those presented under Alternative A, which include localized impacts on watershed resources and water quality from soil compaction, loss of vegetative cover, channel destabilization, nutrient loading of surface waters, and promotion of invasive plant species.

RSFO PRMP/FEIS Appendix A, Section A.2.6 (p. A-10), details best management practices that the BLM could use as stipulations or conditions of approval (COA) attached to future authorizations in the planning area. It is noted that best practices must be determined as a result of a site-specific investigation of the proposed management action. The RSFO PRMP/FEIS does not actually authorize any livestock grazing permits; rather, it only designates lands as “available” or “unavailable” for livestock grazing. The RSFO PRMP/FEIS also does not actually authorize any specific project that affects water quality. All specific projects implementing the RSFO PRMP/FEIS including the authorization of grazing permits will be subject to additional decision-making and environmental analysis of possible water effects, as appropriate, and must comply with the Clean Water Act.

The adoption of the RSFO PRMP/FEIS does not violate the Clean Water Act. Accordingly, this protest issue is denied.

Multiple-Use Violation: Rights-of-Way

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: In addition, overly restrictive management that results in closure of public lands to multiple use is inconsistent with the Energy Act of 2020 and Executive Order 14008. The Energy Act of 2020 established a minimum goal of “authoriz[ing] production of not less than 25 gigawatts of electricity from wind, solar, and geothermal energy projects [on public lands] by not later than 2025.” 43 U.S.C. § 3004(b). Executive Order 14008 sets the goal of reaching 100 percent carbon pollution-free electricity by 2030, net-zero emissions by 2050, and doubling renewable energy production on public lands by 2030. The Proposed RMPA even recognizes these mandates by making it a goal to: “Manage public lands to meet transportation and ROW needs consistent with goals and objectives of other resources while supporting the national energy plans and policies.” RMPA and FEIS at 2-70 (Goal LR-06). This goal will be difficult to achieve if the BLM closes public lands to any new development or rights-of-way. Under the Proposed RMPA, the BLM will manage about 921,059 acres for right-of-way exclusion and 1,047,929 acres as right-of-way avoidance. *Id.* at ES-6; V-26, V-28, Map 2-30. The Proposed RMPA also includes over 1.3 million acres of VRM Class II designations. *Id.* at V-24, Map 2-25. These restrictions are due mostly to special designations and the proposed National Trail Management Corridor. RMPA and FEIS at 2-89 (Mgmt. Action #7004), 2-101 (Mgmt. Action #7313), 2-104 (Mgmt. Action #7330), 2-111 (Mgmt. Action #7421), 2-127 (Mgmt. Action #7525), 2-129 (Mgmt. Action # 7540). The BLM admits: “Because surface disturbance activities in VRM Class II areas may be visible but should not attract the attention of the casual observer, meeting this objective would require relocating certain projects, combining them in areas out of view, or otherwise mitigating them.” *Id.* at 4-81. “Managing for VRM would place greater limitations to renewable energy development projects, by restricting the availability and access of development sites and the site clearing/preparation/construction activities (roads, facilities, structures, and transmission/pipe lines) necessary for the generation, collection, and transport of the energy.” *Id.* at 4-133 - 4 -134. The right-of-way exclusion and avoidance areas are especially problematic for various multiple uses. For instance, the National Trail Management Corridor goes through the Known Sodium Leasing Areas (“KSLA”). *Id.* at Map 2-40, Map 3-10. However, this Corridor is designated as a right-of-way avoidance and the Proposed RMPA prohibits surface disturbing activities that cause more than a weak contrast to the trails setting. *Id.* at 2-89 (Mgmt. Action #7003). This will impact the ability of trona mine permittees to install future mine shafts, solution mining wells and pipelines, associated access roads, power and utilities infrastructure, and other supporting facilities. The right-of-way exclusion and avoidance areas also have the potential to impact the ability of developers to develop and access existing leases (see *id.* at Map 3-8) and could impact grazing permittees ability to develop any new range improvements.

Wyoming Legislature Select Committee on Federal Natural Resource Management

TaLise Hansen

Issue Excerpt Text: The Committee asserts that the State Director’s decision on the Rock Springs RMP disregards the Federal Land Policy and Management Act (FLPMA). The FLPMA requires the BLM to “manage the public lands under principles of multiple use and sustained yield.”¹⁶ The Rock Springs RMP fails to manage the Rock Springs planning area under principles of multiple use as the FLPMA requires. The Rock Springs RMP nearly eliminates energy and mineral development in favor of natural scenic, scientific, and historical values. The Rock Springs RMP emphasizes conservation while imposing permanent impairment of the productivity of the land. Therefore, the Committee

disagrees with the BLM State Director’s decision to proceed with the Rock Springs RMP as currently drafted.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The Proposed RMPA sterilizes large swaths of public land to multiple use through the collective special designations and land restrictions in violation of FLPMA. See e.g. RMPA and FEIS at 2-89 (Mgmt. Actions #7003, 7004), 2-125 (Mgmt. Action #7516), 2-126 (Mgmt. Actions #7519, 7523), 2-129 (Mgmt. Actions #7543, 7538, 7540), Map 2-25, Map 2-30, Map 2-40.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: FLPMA authorizes the BLM to manage the public lands in a manner that promotes multiple use. 43 U.S.C. § 1701(a)(7); 43 U.S.C. § 1732(a). Per the statute, “multiple use” is defined as follows: “The term “multiple use” means 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; . . . a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and non renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and 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”. 43 U.S.C. § 1702(c). The principal uses under FLPMA have long been limited to “domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.” 43 U.S.C. § 1702(l). However, under the Proposed RMPA the BLM has severely restricted multiple use and limited or closed over a million acres of federal land to development, new rights-of-way, and motorized recreation. See RMPA and FEIS at Table 2-4, Table 2-7, Table 2-9, Table 2-10, Table 2-11, Map 2-10, Map 2-20, Map 2-25, Map 2-30.

Summary:

Protestors stated that the BLM violated the Energy Act of 2020, EO 14008, and FLPMA’s multiple-use mandate by implementing overly restrictive management (i.e., ROW exclusion and avoidance areas) that closes public lands to multiple use, hindering renewable energy development, ROWs, mineral development, and other uses in favor of natural scenic, scientific, and historic values.

Response:

Section 302(a) of FLPMA directs the BLM to manage public lands on the basis of multiple use and sustained yield, unless otherwise provided by law (43 U.S.C. 1732(a)). Section 103(c) of FLPMA defines “multiple use” as the management of 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.

FLPMA’s multiple-use policy does not require that all uses be allowed on all areas of the public lands. Rather, the BLM has wide latitude to allocate the public lands to particular uses, 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. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses that involves tradeoffs between competing uses. EO 14008 was signed on January 27, 2021, and was meant to address climate change

as both a foreign policy and a national security priority. Similarly, the Energy Act of 2020 was legislation enacted to support clean energy research and development.

All alternatives considered in Chapter 2 of the RSFO PRMP/FEIS provide an appropriate balance of uses on public lands and do not eliminate multiple use or the ability of the U.S. to meet clean energy goals. 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. See RSFO PRMP/FEIS Appendix E for more information on the Federal laws, regulations, and policies that were directly considered in the RSFO PRMP/FEIS (pp. E-1 through E-17). It is the BLM's policy to incorporate changes in management strategy as future policies and rules are developed. In addition, Section 4.20 provides the analysis of impacts on potential renewable energy projects, including assumptions that take into account the BLM's policy to encourage development of renewable energy in acceptable areas (RSFO PRMP/FEIS pp. 4-129 through 4-137).

ROWs and corridors under each alternative are provided in Management Actions 6200 through 6210 (RSFO PRMP/FEIS pp. 2-70 through 2-71), which specify how the BLM will manage public lands to meet transportation and ROW needs while also being consistent with the goals and objectives of other resources and supporting the national energy plans and policy areas. ROW areas are also provided for each alternative on Maps 2-26 through 2-30 at the end of Volume 1 of the RSFO PRMP/FEIS (PDF pp. 403 through 407). Exceptions to ROW avoidance and exclusion areas may be provided if specific criteria apply (see RSFO PRMP/FEIS Appendix B). An analysis of potential impacts on lands and realty, including ROWs, from implementation of the PRMP/FEIS under each alternative is provided in Section 4.19 (pp. 4-125 through 4-129) and Appendix U, Section 4.19 (pp. U-135 through U-140).

Proposed management for mineral resources under each alternative including locatable minerals, leasable minerals (geothermal, oil and gas, geophysical exploration, and others), and salable minerals is provided in Management Actions 2000 through 2057 (RSFO PRMP/FEIS pp. 2-14 through 2-27). An analysis of potential impacts on energy and minerals from implementation of the RSFO PRMP/FEIS under each alternative is provided in Section 4.11 (pp. 4-79 through 4-85) and Appendix U, Section 4.11 (pp. U-80 through U-84). Proposed management for renewable energy is provided in Management Actions 6100 through 6108 (pp. 2-69 through 2-70) and an analysis of potential impacts on renewable energy from implementation of the RSFO PRMP/FEIS under each alternative is provided in Section 4.20 (pp. 4-129 through 4-137) and Appendix U, Section 4.20 (pp. U-140 through U-149).

The RSFO PRMP/FEIS is in compliance with FLPMA and all other applicable laws, regulations, and policies, the Energy Act of 2020, and EO 14008. Accordingly, this protest issue is denied.

FLPMA: Air Quality and Climate

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM's treatment of air quality also does not satisfy FLPMA or the Clean Air Act (CAA). FLPMA requires that, in the "development and revision of land use plans, [BLM] shall . . . provide for compliance with applicable pollution control laws," including the ozone NAAQS. Likewise, FLPMA's implementing regulations provide that "each land use authorization shall contain terms and conditions which shall . . . require compliance with air . . . quality standards established pursuant to applicable Federal or State law." Indeed, Congress tasked BLM with the responsibility of managing public lands to protect the quality of "air and atmospheric" resources under FLPMA. Under the Clean Air Act, federal agencies must not "engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to a [state implementation plan (SIP) designed to ensure compliance with the National Ambient Air Quality

Standards (NAAQS)].” An action conforms to a state implementation plan if it does not “cause or contribute to any new violation of any standard in any area; increase the frequency or severity of any existing violation of any standard in any area; or delay timely attainment of any standard [or any required interim emission reductions or other milestones in any area.” The FEIS acknowledges these requirements. But BLM fails to demonstrate whether or how compliance will be achieved, or how projected future ozone formation from BLM-permitted oil and gas development will impact the region’s continued nonattainment with the ozone NAAQS. This does not satisfy FLPMA or the CAA. It also conflicts with NEPA’s requirement to explain how the different alternatives “will or will not” comply with “other environmental laws and policies.” Instead, the FEIS states that BLM plans to implement an “air quality adaptive management strategy” in “lieu of emissions modeling.” BLM, however, cannot avoid its obligations under NEPA, FLPMA, and the CAA by deferring the issue this way. BLM’s adoption of an RMP represents a set of critical decisions on how to manage the planning area, and NEPA requires the agency to take a hard look at the impacts of those decisions before making them.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: Similarly, promising to deal with air quality later does not satisfy BLM’s obligation under FLPMA to provide for compliance with the ozone NAAQS. BLM acknowledges the RMP may contribute to increased ambient ozone concentrations in an area already in nonattainment, and nothing in the RMP or adaptive management strategy explains how that outcome will conform with the NAAQS. For the same reason, the RMP does not satisfy the CAA requirement to avoid causing or contributing to the existing NAAQS violation. A review of the RMP’s adaptive management strategy illustrates these shortcomings. First, it does not commit to any modeling or analysis that would substitute for an RMP analysis of air quality impacts. The strategy, for example, contemplates that BLM “will work collaboratively with other agencies involved in the management of air resources,” and offer continued support for regional air quality modeling efforts conducted by other federal and state agencies. These regional analyses do not appear to focus on BLM’s contribution to regional ozone and other air quality impacts, and thus cannot substitute for an RMP analysis.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM’s analysis of air quality impacts does not comply with NEPA, FLPMA, or the Clean Air Act. In our comments on the Draft EIS, we identified significant shortcomings with the analysis of air quality. Those flaws have not been corrected in the FEIS. In particular, BLM has not conducted any air quality modeling to determine what the impacts will be from activities to be authorized under the RMP such as new oil and gas leasing and development. Nor does the DEIS assess whether those air quality impacts will comply with National Ambient Air Quality Standards (NAAQSs) and other Clean Air Act requirements. The FEIS acknowledges that BLM management activities in the Rock Springs office will generate tens of thousands of tons of air pollution each year. It estimates the total annual emissions of ten different pollutants under the alternatives considered in the DEIS, and reports that estimate for three different time periods: year 1 of the RMP, year 10, and year 20. For ozone precursors, the FEIS predicts that emissions of volatile organic compounds (VOCs) from BLM-approved activities under Alternative D will almost triple by year 20-increasing to nearly 72,000 tons per year (tpy). And emissions of Nitrogen Oxides (NOx) will double, to over 26,000 tpy, by year 20 of the RMP. These emissions are largely driven by projected mineral development: the FEIS notes that “the major contributor to total pollutant emissions over the life of the plan is predicted to be predominantly attributable to activities associated with oil and gas development.” The FEIS anticipates that “total sales value of oil and gas increases every year because more wells come into production.”

The Wilderness Society

Julia Stuble

Issue Excerpt Text: The FEIS also fails to analyze the reasonably foreseeable impacts of those emissions on ambient air quality. The FEIS, for example, does not forecast how much ambient ozone levels will rise as a result of the VOC and NO_x increases BLM expects, or how declines in air quality would differ between the plan alternatives. Nor does the FEIS determine whether RMP-related VOC and NO_x emissions will prevent this region of Wyoming from complying with the ozone NAAQS. This latter omission poses a particular concern because part of the planning area is already designated as a nonattainment area. Moreover, as the FEIS notes, the “Forest Service, National Park Service, and the U.S. Fish and Wildlife Service have expressed concerns regarding potential atmospheric deposition (i.e., acid rain) and visibility impacts within downwind PSD Class I and sensitive Class II areas under their administration throughout Wyoming.” The FEIS does not evaluate how air pollution from BLM-authorized activities will degrade visibility and increase acid rain at the Fitzpatrick and Bridger Wilderness Areas, which are just to the north of the planning area, and several other wilderness areas “near the Rock Springs Planning Area” in Wyoming and Colorado. These are designated as Class I areas under the Clean Air Act and several lie within 100 miles of the planning area.¹³⁶ All the FEIS says about air quality impacts is that increased oil and gas development under the plan “ha[s] the potential to contribute to increased ambient concentrations [in the] ozone nonattainment area” and “the potential to cause impacts related to visibility degradation and increased atmospheric deposition at sensitive areas,” with different DEIS alternatives having larger or smaller impacts. This level of generality does not satisfy NEPA because it just “informs [BLM] and the public what they already know.”¹³⁸ It does not inform BLM and the public about how severe the impacts of any alternative will be. For example, it does not inform readers whether and to what extent each alternative will exacerbate violations of the ozone NAAQS, or reduce visibility and increase acid rain in nearby Class I areas. NEPA requires more than that. Analyzing the foreseeable impacts to ambient ozone concentrations, visibility, and atmospheric deposition is not only feasible, but regularly done as part of preparing RMPs. In numerous other RMPs, BLM has conducted modeling to answer these questions. Air quality modeling is entirely feasible for this RMP as well, and should have been done.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM failed to adequately analyze, consider, and mitigate climate impacts The FEIS discusses that greenhouse gas (GHG) emissions associated with coal, oil shale, and oil and gas leasing and development will substantially impact the planning area. As such, the proposed Plan should take additional measures to further limit mineral development, thereby further reducing GHG emissions and resulting climate impacts, pursuant to its authority under FLPMA. First, BLM needs to provide a reasoned explanation for its decision to authorize activities that will result in huge quantities of GHG emissions and cause billions of dollars in social and environmental harms. The FEIS projects that each of the four DEIS alternatives will result in millions of metric tons of GHG emissions. The FEIS also estimates that the present value of the social and environmental harms from those emissions (the social cost of carbon calculation) will range between \$3.1 Billion and \$58.4 Billion. BLM, however, never explains why it is choosing to incur these massive costs, or what benefits might justify doing so. That explanation is necessary to satisfy NEPA and the Administrative Procedure Act.

Andrew Salter

Issue Excerpt Text: The BLM’s decision to expand the land available for oil and gas leasing by 1,110,179 acres over the initial draft disregards current climate science as well as ignores the adverse effects of burning fossil fuels on our health and environment. The BLM has failed to provide adequate evidence or consideration of the potential increase in greenhouse gas emissions and their impact on the Rock Springs area or on public health in general. This oversight fails to meet the

requirements set by the National Environmental Policy Act and the latest guidance from the Council on Environmental Quality (CEQ-2022-0005).

Kaycee Prevedel

Issue Excerpt Text: Expanding land available for oil and gas leasing by 1,110,179 acres from the initial preferred draft disregards current climate science and the adverse effects of burning fossil fuels on our health and environment. The Bureau of Land Management (BLM) has not provided adequate evidence or consideration of the potential increase in greenhouse gas emissions and their impact on the Rock Springs Field Office, the broader climate, or public health. This oversight fails to meet the requirements set by the National Environmental Policy Act and the latest guidance from the Council on Environmental Quality (CEQ-2022-0005).

Debra Park

Issue Excerpt Text: Expanding land available for oil and gas leasing by 1,110,179 acres from the initial draft disregards current climate science and the adverse effects of burning fossil fuels on our health and environment. The Bureau of Land Management (BLM) has not provided adequate evidence or consideration of the potential increase in greenhouse gas emissions and their impact on the Rock Springs Field Office, the broader climate, or public health. This oversight fails to meet the requirements set by the National Environmental Policy Act and the latest guidance from the Council on Environmental Quality (CEQ-2022-0005).

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: BLM's failure to analyze the effects of carbon capture and sequestration within the planning area renders its analysis inadequate under NEPA. BLM must take a hard look at emissions associated with carbon sequestration, and in doing so much, account for anticipated leakage over time, including leakage due to faults present in the Rock Springs Uplift. Scientific studies specify that even incredibly low leakage rates over time render geologic sequestration of carbon dioxide to be less beneficial, from a climate perspective, than simply using renewable energy. DiGiulio (2024, Attachment 5). BLM cannot simply reference emissions management or air quality improvement as a rationale for allowing geologic sequestration of carbon within the planning area (see FEIS at 2-3, 2-67). BLM also fails to analyze various health and safety impacts associated with carbon capture and sequestration. For example, BLM does not discuss safety risks during the transportation or storage stages, such as the risks to humans and wildlife from fugitive emissions of carbon dioxide. Nor does BLM discuss health risks associated with carbon capture, which can include the release of increased co-pollutants. Furlanetto et al. (2024, Attachment 6). For the reasons provided above, we do not recommend zoning any part of the RSFO for geologic carbon sequestration and associated studies (see, e.g., FEIS 2-67). Carbon sequestration is best achieved by keeping fossil fuels in the ground and prohibiting the further leasing of public lands and minerals for coal, oil, natural gas, and coalbed methane production.

Summary:

Protestors claimed that the BLM violated FLPMA and the CAA by failing to ensure current or future compliance with pollution control laws, including the ozone NAAQS, and the adaptive management strategy lacks commitments to modeling or analysis specific to the BLM's air quality impacts. Protestors also claimed that the BLM violated NEPA, FLPMA, and the CAA because it failed to adequately analyze the impacts of new oil and gas activities on air quality, public health, and the environment. Protestors also state that the BLM failed to analyze the foreseeable impacts of emissions on ambient air quality, including how VOCs and NO_x increases will affect ozone levels and compliance with NAAQS in a nonattainment area, or how air pollution from BLM activities will affect visibility and acid rain in nearby Class I areas.

In addition, protestors claim that the BLM failed to adequately analyze the potential adverse climate impacts from expansion of land available for oil and gas leasing under the PRMP, did not provide any adequate explanation as to why the projected increases in GHG emissions are justified, and failed to take a hard look at emissions or health risks associated with carbon sequestration, including leakage from faults present in the Rock Springs Uplift.

Response:

FLPMA requires that when preparing land use plans, the BLM must “provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementations plans,” such as the CAA (FLPMA, Section 202(c)(8)). Wyoming and the EPA have primacy with regard to implementation of the CAA. Under the CAA, Wyoming and the EPA regulate the emission of air pollutants to protect air quality.

The RSFO PRMP/FEIS does not authorize any on-the-ground action that will result in emissions of air pollutants. All future Federal actions in conformance with the management in the RSFO PRMP/FEIS would be subject to additional analysis of possible air effects before approval. When a project is proposed with potential air quality impacts, the BLM would conduct a site-specific analysis. No development of a new or modified source of air pollutants would be allowed to proceed unless it could be demonstrated that the proposed source or facility will not prevent attainment or maintenance of any State or Federal ambient air quality standard.

Air quality analysis conducted for the RSFO PRMP/FEIS under each alternative is discussed in the RSFO PRMP/FEIS in Chapter 4 under Section 4.3 (pp. 4-3 through 4-13), Appendix U, Section 4.3 (pp. U-1 through U-9), and Appendix P, *Air Quality Technical Support Document* (pp. P-1 through P-66). The BLM analyzed the potential impacts on air quality from reasonably foreseeable actions under the RMP. The RSFO PRMP/FEIS relied on emission data from specific activities that may be authorized, allowed, or performed by the BLM under each alternative within the planning area over the life of the RMP. The air resource impact analysis consisted of a comparative emissions approach to evaluate emission levels and air quality conditions of estimated future emissions for each alternative. This analysis was based on reasonably foreseeable development (RFD) scenarios for management actions under each alternative as provided by the RSFO and the potential for impacts on future air quality conditions. By identifying those activities with significant estimated emissions, the BLM can focus its air resource protection and compliance efforts effectively. The emission comparison approach provides a sound basis for comparing current air quality emissions with those expected to be produced from the RSFO PRMP/FEIS. This approach was selected because of uncertainties about the number, nature, and specific location of future sources and activities. Based on this analysis, the BLM does not expect emissions related to future Federal actions anticipated under the RSFO PRMP/FEIS to prevent attainment or maintenance of any State or Federal ambient air quality standard.

The BLM’s proposed Management Actions 1000–1017 for Air Resources (RSFO PRMP/FEIS, pp. 2-3 through 2-5) as well as the Air Quality Adaptive Management Strategy (RSFO PRMP/FEIS Appendix Q) ensure that the BLM will provide for compliance with all applicable State and Federal air quality rules and regulations for any BLM-authorized activities that occur in the planning area. The RMP does not authorize development to occur without subsequent site-specific decision-making and NEPA analysis. There are no activities that are authorized to occur as a result of the RMP; therefore, no impacts are occurring as a result of the RMP. Air quality impacts are assessed at the time development is proposed and are dependent on a number of factors including timing, location, extent and type of development, and the magnitude of emissions from the project.

Therefore, approval of the RSFO PRMP/FEIS does not violate FLPMA or the CAA. Accordingly, this protest issue is denied.

FLPMA: Consistency with Other Plans

Muley Fanatic Foundation

Joshua Coursey

Issue Excerpt Text: Prior to finalizing the Rock Springs RMP, BLM must determine whether it is necessary to achieve greater consistency between its management for the Sugarloaf Basin and Pine Mountain MAs and state-level recommendations. As BLM is aware, the Federal Land Policy and Management Act (FLPMA) encourages consistency between federal and state land use plans. See 43 U.S.C. § 1712(c)(9) (“Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent . . . consistent with Federal law and the purposes of this Act.”). Here, the State of Wyoming and its agencies have consistently supported the adoption of conservation measures for GLM. In 2020, Governor Gordon requested “safeguards . . . that allows the Greater Little Mountain Area’s habitat to continue to flourish alongside the maintenance of multiple uses.” Enclosed. In January, Governor Gordon’s Rock Springs Task Force echoed this recommendation, “support[ing] management actions that conserve the area’s hunting, fishing, and recreational opportunities while maintaining the multiple-use mandate.”² And, in comments on the Draft RMP, WGFD endorsed specific “conservation-focused actions” for various sub-regions of GLM, including Sugarloaf Basin and Pine Mountain...In spite of these state-level recommendations, BLM opened both of the MAs to surface disturbing activities in the Proposed RMP, including oil and gas leasing/development. While those activities would be subject to certain constraints, they fall short of the stringent “conservation-focused actions” recommended by WGFD. Accordingly, BLM must reevaluate its proposed management for the Sugarloaf Basin and Pine Mountain MAs and align that management with the recommendations of WGFD “to the maximum extent . . . consistent with Federal law and the purposes of” FLPMA.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: BLM Failed to Recognize DEQ’s Primacy Over Environmental Regulation in Wyoming DEQ has primacy or agreement state status for the majority of federal environmental programs and is statutorily charged by the Wyoming Environmental Quality Act and Industrial Development Information and Siting Act with protecting human health and the environment. A state obtains primary authority to enforce environmental controls through a federally approved state program. As a practical matter, primacy means that citizens and industry located within that state deal with state regulators in the first instance. The State of Wyoming, acting through WDEQ, has primacy over water (with the exception of drinking water), air, solid and hazardous waste, abandoned mine land reclamation, and coal mining within Wyoming. Because Congress has not authorized the BLM to regulate the same matters, BLM must defer to Wyoming’s WDEQ on all primacy subjects and matters. As such, the FEIS vaguely acknowledges, “coordination and communication,” with WDEQ. This is not the same as an explicit recognition and incorporation of WDEQ’s regulatory authority into the FEIS. BLM continues to ignore DEQ’s primacy over other programs and raises unnecessary conflict between the BLM and DEQ if the RMP is implemented with BLM attempting to exercise authority that it does not have. The BLM is claiming authority regarding the regulation of air, land, solid and hazardous waste, abandoned mine lands, carbon sequestration, and industrial siting. This authority lies solely with DEQ. DEQ requests that BLM explicitly recognize DEQ’s primacy authority over these programs throughout the RMP.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: As written, the FEIS only acknowledges WDEQ primacy with regard to water quality in Section 4.5.1, however BLM continues to assert that it can determine whether a surface water discharge should be authorized. Only DEQ has authority to authorize surface water discharges,

which it does by issuing permits under the Wyoming Pollutant Discharge Elimination System (WYPDES) Program. DEQ has administered the WYPDES Program since 1974, when DEQ was granted primacy of the National Pollutant Discharge Elimination System Program. BLM did not coordinate with DEQ/WQD in developing this Management Action, despite DEQ having primacy for this program. To address this issue, BLM must revise Management Action 1300 to indicate that applicants for projects that result in surface water discharges must comply with DEQ requirements established in the Wyoming Environmental Quality Act and Wyoming Water Quality Rules. BLM should direct applicants to consult with DEQ/WQD on projects that may result in surface discharge.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: It is WDEQ's belief that industry can develop in the planning area without compromising air quality resources. Despite this, BLM effectively imposes a de facto ceiling more stringent than the WDEQ's adequate and legislated measures by limiting the planning area's ability to develop industry. Thus, the BLM's proposed action is inconsistent with Wyoming Law. This is in contradiction to the precedents WDEQ has set in consulting on such matters. WDEQ has successfully permitted many projects, including trona, in the Rock Springs Management Area and has primacy over air quality permitting. WDEQ should be consulted for determination of development and regulation of air impacts from trona processing.

Wyoming County Commissioners Association

Triston Rice

Issue Excerpt Text: Under FLPMA, the BLM is required to stay apprised of local plans, give consideration of local plans in development of a RMP, and resolve inconsistencies between local plans and its land use plans within the FEIS. However, the WCCA has identified significant inconsistencies between the BLM's RMP and the approved land use plans of the five counties within the planning area. The BLM's response to the WCCA's comments (Attachment H, Comment IDs #13953-4 through #13953-9) fails to address our concerns regarding the lack of internal consistency review. Instead of providing a substantive response, the BLM references updated sections and tables within the FEIS. Notably, Table 1-2 continues to list outdated land use plans, such as Fremont County's, despite our specific mention of this in Comment #13953-7. This repeated error in the Proposed RMP exemplifies the effort BLM has put forth to stay apprised of local plans, give them consideration during planning, and resolve inconsistencies. Throughout the FEIS, the BLM asserts that "consistency with other plans was accomplished through frequent communications, meetings, and cooperative efforts between the BLM interdisciplinary team and involved federal, state, and local agencies." However, these statements merely reference meeting dates and plans reviewed, without explaining how the BLM ensured consistency between the RMP and local county natural resource plans. Furthermore, the BLM did not respond to WCCA's Consistency Review Letter (Submission ID: DEIS-1- 500626417), undermining the credibility of their claims of coordination and making their response disingenuous at best.

Wyoming County Commissioners Association

Triston Rice

Issue Excerpt Text: In summary, beyond blanket statements like "The interdisciplinary team reviewed county land use plans to ensure consistency" or "Meetings were held with respective county planners and commissioners," the FEIS lacks any substantive discussion of how the BLM reconciled its proposed actions with county plans, as required under 40 C.F.R. § 1506.2(d). There is no discussion within the FEIS of any inconsistencies with local plans and the BLM has failed to describe the extent which the agency would reconcile the RMP with local plans. The BLM's failure to provide meaningful analysis of these inconsistencies raises serious concerns about the adequacy of the RMP's review process. The WCCA has invested significant resources in identifying these issues, but the BLM has yet to resolve them.

***Sweetwater County Board of County Commissioners
Keaton West***

Issue Excerpt Text: BLM FAILS TO ADDRESS INCONSISTENCIES WITH STATE AND LOCAL PLANS IN THE FEIS IN VIOLATION OF FLPMA AND NEPA Pursuant to FLPMA, the BLM must ensure that “land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.” 43 U.S.C. 1712(c)(9) (emphasis added). BLM must keep apprised of state and local land use plans, give consideration to such plans, and to assist in resolving inconsistencies between Federal plans and local government plans. 43 C.F.R. §§ 1610.3-1(a)(1)-(3), 1610.3-2(a). The regulations require federal agencies to address how inconsistencies between a proposed action and local lands use plans are addressed and resolved. *Am. Motorcyclist Ass’n v. Watt*, 534 F. Supp. 923, 936 (D. Cal. 1981). NEPA further requires the BLM to discuss within the EIS any inconsistencies of a proposed action with State and local plans, and the extent to which such inconsistencies could be reconciled. 40 C.F.R. §§ 1502.16(a)(5), 1506.2(d). It is not enough for the BLM Field Manager to state that the consistency review will occur after the FEIS has been filed, because NEPA requires that the consistency discussion be included within the EIS. See *Quechan Tribe of Ft. Yuman Indian Reservation v. U.S. Dep’t of the Interior*, 927 F. Supp. 2d 921, 946 (D. Cal. 2013) (BLM’s consistency analysis was sufficient due to the FEIS containing a “General Plan Policy Consistency Analysis which addresses the consistency between the Project and local regulations and law.”). The FEIS currently lists the Local, State, and Federal Management Plans, but excludes Sweetwater County’s Federal Lands and Resources Plan that was adopted by the County in June of 2022. RMPA and FEIS at 1-5. While this County Plan is newer, the County did provide it to the Field Manager months before the Proposed RMP and DEIS was released to the public. See Attach. 10, Email from Mary Thoman (Apr. 21, 2022). In addition, the FEIS provides no discussion on how the Proposed RMPA is consistent or inconsistent with local, state or federal land use plans, let alone explain how it attempts to resolve any inconsistencies. This is completely contrary to requirements under regulations. 43 C.F.R. §§ 1610.3- 1(a)(1)-(3), 1610.3-2(a); 40 C.F.R. §§ 1502.16(a)(5), 1506.2(d). The County previously provided a Consistency Analysis Table with its comments on the DEIS. The Table outlined how the Preferred Alternative B is consistent or inconsistent with its local land use plans. This consistency analysis is still applicable to the Proposed RMPA to the extent that the Proposed RMPA adopted the management actions from Alternative B. In general, the County supports managing federal lands for multiple use and sustained yield, and specifically managed for the primary multiple uses of “domestic grazing, minerals, timber, wildlife, recreation, and rights-of-way.” Sweetwater County’s Federal Lands and Resources Plan at Section 2.1.1 (June 2022). The County also “discourages and vigorously opposes federal land use restrictions or special designations that eliminate multiple uses and constrain economic growth and activity.” *Id.* at Section 2.2.2; see *id.* at Section 21.4.2 (County “opposes broad-scale ACEC classifications”). Instead, the County “encourages growth and development to continue in location that contribute to the economic social well-being of County residents.” Sweetwater County Comprehensive Plan at p. 2.4 (2002). The Proposed RMPA is still replete with management actions that move away from multiple use, over utilizes special designations to restrict multiple use of public lands and deters economic growth and activity throughout the County. See e.g. RMPA and FEIS at 2-89 (Mgmt. Actions #7002, 7003), 2-125 (Mgmt. Action #7516), 2-126 (Mgmt. Action #7519), 2-127 (Mgmt. Action #7525), 2-129 (Mgmt. Actions #7538, 7540, 7543).

***Sublette County, Wyoming
Jeness Saxton***

Issue Excerpt Text: Under FLPMA, the BLM is required to stay apprised of local plans, give consideration of local plans in development of a RMP, and resolve inconsistencies between local plans and its land use plans. However, the County has identified significant inconsistencies between the BLM’s RMP and our adopted land use plan. The BLM’s response to the County’s comments does

not adequately address our concerns regarding the lack of internal consistency review. Regarding consistency with local plans, the only change made was updating the date of our policy, rather than conducting a thorough review of its contents. Notably, Table 1-2 continues to list an outdated land use plan for Fremont County, despite the fact that other commenters made note of a new plan (e.g. Comment #13953- 7). Rather than offering a substantive response to county assertions of inconsistencies, the BLM references the partially updated table within the FEIS. This repeated error in the Proposed RMP exemplifies the lack of effort the BLM has put forth to stay apprised of local plans, to give them proper consideration during the development of the RMP, and to resolve inconsistencies. In essence, the response appears to be superficial, failing to engage with the core issues raised by the County regarding both internal consistency and alignment with local planning documents. Throughout the FEIS, the BLM asserts that “consistency with other plans was accomplished through frequent communications, meetings, and cooperative efforts between the BLM interdisciplinary team and involved federal, state, and local agencies.” However, these statements merely reference meeting dates and plans reviewed, but fail to provide any explanation of the process for ensuring alignment between the RMP and our natural resource plan. This lack of detail leaves unanswered questions about the thoroughness and effectiveness of their consistency review. The County and other agencies invested significant resources into creating the Consistency Evaluation Table that we provided with our comments. We conducted a thorough analysis, meticulously comparing the BLM’s preferred alternative against our established Federal & State Land Use Policy. This effort was made in good faith to assist the BLM in conducting its required consistency review. The BLM neglected to acknowledge or make use of the Consistency Evaluation Table that we submitted. This oversight not only weakens their assertions of coordination but also casts doubt on the sincerity of their response, suggesting a lack of genuine engagement with our concerns, and the concerns of other local governments. We again urge the BLM to undertake this comprehensive review process and meaningfully address the discrepancies between the RMP and local resource plans. In summary, beyond blanket statements like “The interdisciplinary team reviewed county land use plans to ensure consistency” or “Meetings were held with respective county planners and commissioners,” the FEIS lacks any substantive discussion of how the BLM reconciled its proposed actions with county plans, as required under 40 C.F.R. § 1506.2(d). There is no discussion within the FEIS of any inconsistencies with local plans and the BLM has failed to describe the extent to which the agency would reconcile the RMP with local plans. The BLM’s failure to provide meaningful analysis of these inconsistencies raises serious concerns about the adequacy of the RMP’s review process. The County and the WCCA have invested significant resources in identifying these issues, but the BLM has yet to resolve them.

Sublette County, Wyoming

Jeness Saxton

Issue Excerpt Text: Consistency Review: The BLM must conduct a detailed and transparent consistency review, addressing each of the identified conflicts between the RMP and our county plan. Having invested substantial time and resources in our Consistency Evaluation Table, Sublette County expects the BLM to engage with these evaluations and rectify inconsistencies as required by FLPMA. Without meaningful collaboration, the credibility of the RMP process remains undermined.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The BLM fails to address inconsistencies between the Proposed RMPA and state and local government land use plans within the FEIS in violation of NEPA and FLPMA. See RMPA and FEIS at 1-5 - 1-6.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: BLM Fails to Address Inconsistency with State and Local Land Use Plans in Violation of the FLPMA and NEPA The BLM is required to ensure that “land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.” 43 U.S.C. 1712(c)(9). BLM must keep apprised of state and local land use plans, consider such plans, and assist in resolving inconsistencies between Federal plans and local government plans. 43 C.F.R. §§ 1610.3-1(a)(1)-(3), 1610.3-2(a). The regulations require federal agencies to address how inconsistencies between a proposed action and local lands use plans are addressed and resolved. *Am. Motorcyclist Ass’n v. Watt*, 534 F. Supp. 923, 936 (D. Cal. 1981). NEPA further requires the BLM to discuss within the FEIS any inconsistencies of a proposed action with State and local plans, and the extent to which such inconsistencies could be reconciled. 40 C.F.R. §§ 1502.16(a)(5), 1506.2(d). It is not enough for the BLM to state that the consistency review will occur after the FEIS has been filed, because NEPA requires that the consistency discussion be included within the EIS. See *Quechan Tribe of Ft. Yuman Indian Reservation v. U.S. Dep’t of the Interior*, 927 F. Supp. 2d 921, 946 (D. Cal. 2013) (BLM’s consistency analysis was sufficient due to the FEIS containing a “General Plan Policy Consistency Analysis which addresses the consistency between the Project and local regulations and law.”). The BLM fails to provide any discussion in the FEIS about state or local land use plans and whether they are consistent or inconsistent with the Proposed RMPA. See RMPA and FEIS at 1-5. The BLM has also failed to update its list of local plans with the Counties’ and Conservation Districts’ most recent versions. See *id.* The Coalition described in its comments on the DEIS how Alternative B was specifically inconsistent with the Coalition members’ local land use plans. These comments continue to hold true for the Proposed RMPA to the extent it fails to manage public lands for multiple use and instead focuses on over expansive special designations that would restrict and severely inhibit development, recreation, and grazing on federal lands. See e.g. RMPA and FEIS at 2-89 (Mgmt. Actions #7002, 7003), 2-125 (Mgmt. Action #7516), 2-126 (Mgmt. Action #7519), 2-127 (Mgmt. Action #7525), 2-129 (Mgmt. Actions #7538, 7540, 7543); see also *supra* Section I (excerpts of local land use plans).

Little Sandy Grazing Association

Ken Moon

Issue Excerpt Text: Sweetwater County’s resource management plan is the result of a great deal of time and effort to gather public involvement and local knowledge. The County’s plan specifically requires the BLM to only designate ACECs to protect “a specific resource in a specific area.” The BLM’s South Wind River ACEC that blankets our allotment is the opposite of this. FLPMA requires the BLM to coordinate and be consistent with local land use plans. It has failed to do so her.

Corey Roberts

Issue Excerpt Text: BLM Fails to Address Inconsistency with State and Local Land Use Plans in Violation of the FLPMA and NEPA The BLM is required to ensure that “land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.” 43 U.S.C. 1712(c)(9). BLM must keep apprised of state and local land use plans, consider such plans, and assist in resolving inconsistencies between Federal plans and local government plans. 43 C.F.R. §§ 1610.3-1(a)(1) (3), 1610.3-2(a). The regulations require federal agencies to address how inconsistencies between a proposed action and local lands use plans are addressed and resolved. *Am. Motorcyclist Assn v. Watt*, 534 F. Supp. 923, 936 (D. Cal. 1981). NEPA further requires the BLM to discuss within the FEIS any inconsistencies of a proposed action with State and local plans, and the extent to which such inconsistencies could be reconciled. 40 C.F.R. §§ 1502.16(a)(5), 1506.2(d). It is not enough for the BLM to state that the consistency review will occur after the FEIS has been filed, because NEPA requires that the consistency discussion be included within the EIS. See *Quechan Tribe of Ft. Yuman*

Indian Reservation v. U.S. Dept of the Interior, 927 F. Supp. 2d 921, 946 (D. Cal. 2013) (BLM’s consistency analysis was sufficient due to the FEIS containing a “General Plan Policy Consistency Analysis which addresses the consistency between the Project and local regulations and law.”). The BLM fails to provide any discussion in the FEIS about state or local land use plans and whether they are consistent or inconsistent with the Proposed RMPA. See RMPA and FEIS at 1-5. The BLM has also failed to update its list of local plans with the Counties’ and Conservation Districts’ most recent versions. The County described in its comments on the DEIS how Alternative B was specifically inconsistent with the County members’ local land use plans. These comments continue to hold true for the Proposed RMPA to the extent it fails to manage public lands for multiple use and instead focuses on over expansive special designations that would restrict and severely inhibit development, recreation, and grazing on federal lands. For example: [list of Proposed RMPA Management Actions that conflict with local plans] g. BLM Failed to Coordinate with State and Local Governments in The Federal Land Policy and Management Act (“FLPMA”) requires the BLM to “coordinate the land use inventory, planning, and management activities of or for [public] lands with the land use planning and management programs ... of the States and local governments within which the lands are located.” 43 U.S.C. § 1712(c)(9).

PacifiCorp dba Rocky Mountain Power

John Hutchings

Issue Excerpt Text: Biological Resources, MA # 4428 - The BLM failed to adequately respond to our comments as Alternative D was selected for MA #4428 and Appendix J was not modified as recommended. PacifiCorp re-submits our original comments on these sections and requests that the BLM review these sections in the RMP. Alternatives A and B of MA #4428 are overly broad, overstep BLM’s authority by attempting to regulate migratory birds, and conflict with guidance issued by the USFWS. USFWS is the agency with authority to regulate raptor conservation and take under the MBTA and BGEPA. While BLM has the authority to regulate habitat on BLM-managed lands, the agency does not have the authority to regulate raptor species. By setting nest criteria that contradicts that of the USFWS, the BLM is overstepping its authority. In addition, the BLM fails to analyze how these contradictory measures reflect current best science or offer tangible benefits to raptors. Under Alternatives A and B, “protections” would be afforded to nests that are not currently active or occupied; this is illogical as it does not afford protection to these species if nests are vacant and contradicts with USFWS guidance. Protections for raptor nest sites should apply only to verified occupied nests in the current year an activity is being performed, not historic nest sites. In addition, changing from species-specific buffer distances to blanket buffer distances is arbitrary and does not account for the unique biology of each species.

PacifiCorp dba Rocky Mountain Power

John Hutchings

Issue Excerpt Text: In addition to the above concerns with MA #4428, PacifiCorp notes that the BLM has failed to consider current USFWS regulatory changes to MBTA and BGEPA. USFWS is currently revising the regulations pertaining to bald and golden eagle permits (50 CFR Part 22) and contemplating making available permits to take other migratory birds protected under the MBTA. Should a company obtain either of these permits, raptor nest restrictions in the permits should supersede raptor nest restrictions in the BLM’s Management Plan. Likewise, current utility SPUT or Eagle Take Permits (ETP) issued by USFWS, as well as Chapter 33 permits issued by WGFD, should supersede BLM RMP management actions regarding nests of eagles and migratory birds. PacifiCorp recommends that the BLM adopt Alternative C of MA #4428, with the modification to Appendix J as detailed above. PacifiCorp recommends that this modification to MA #4428 also be used instead of Alternative A of MA #4429.

***PacifiCorp dba Rocky Mountain Power
John Hutchings***

Issue Excerpt Text: Consistent with USFWS guidance, protections for raptor nest sites should apply only to verified occupied nests in the current year an activity is being performed, not historic nest sites. The USFWS memorandum “MBPM-2” (Migratory Bird Permit Memorandum, April 15, 2003), states: “The MBTA does not contain any prohibition that applies to the destruction of a migratory bird nest alone (without birds or eggs), provided that no possession occurs during the destruction.” Since the publication and implementation of national APP Guidelines in 2005 between the USFWS and the Avian Power Line Interaction Committee (APLIC), the USFWS directive to electric utilities has been that “active” nests are “those with eggs or young present” (APLIC and USFWS 2005; APLIC 2006). USFWS allows for destruction of migratory bird nests, yet BLM is proposing significant buffers for such nests under Alternatives A and B of MA #4428. While utilities do not remove or destroy inactive nests unless necessary due to a safety or fire risk, the application of buffers around such nests is an unnecessary restriction against the safe operations and maintenance of electrical infrastructure.

PacifiCorp concurs that different raptor species require different disturbance buffers, and encourages the BLM to use buffer distances that are consistent with USFWS guidance for eagles and other raptors (see Romin and Muck 2002; USFWS 2007; USFWS 2022). These documents are applicable within the USFWS Region 6 area, and have been effectively used by the USFWS and industry for two decades. Appendix J of the FEIS includes seasonal wildlife restrictions, with dates and buffers for various raptor species. Alternatives A, B, C, and D all differ from USFWS guidance for various species, and PacifiCorp recommends that the BLM modify its alternatives to align with USFWS guidance. Specifically, PacifiCorp recommends the following:

- o Appendix J.1. Alternative A is consistent with USFWS for golden eagles (GOEA) with a ½ mile buffer; however, other distances contradict USFWS guidance (other raptors have a blanket buffer of ½ mile under BLM vs. species-specific buffer distances under USFWS).
- o Appendix, J.2. Alternative B uses blanket buffer distances “within 2 miles of active and historic nests.” This is overly restrictive, contradictory with USFWS guidance, and appears only to restrict and hinder development and operations of permittees. Likewise, BLM fails to justify the need for buffers beyond USFWS recommendations, and fails to document the biological benefits of the blanket buffer distances to the various species.
- o Appendix J.3. Alternative C implements a blanket buffer distance of ½ mile of active nests. Under this alternative, buffers only apply to active nests, which is consistent with USFWS. However, the buffer distance is inconsistent with USFWS guidance, which uses species-specific buffers that are 1/8, ¼, ½, or 1 mile depending on the species. PacifiCorp recommends that the BLM modify this alternative to use buffer distances consistent with USFWS.
- o Appendix J.4. Alternative D applies differing buffer distances around “occupied and historic nest sites.” Buffers around historic nests are overly restrictive, contradictory with USFWS guidance, and appear only to restrict and hinder development and operations of permittees. Likewise, BLM fails to justify the need for buffer distances beyond USFWS recommendations, and fails to document biological benefits to species for buffers around historic or unoccupied nests. On some projects in other BLM Field Offices, PacifiCorp has been required to monitor historic nests; this has resulted in increased project costs and none of the historic nests have been subsequently used in future years. Rather, the nests continue to deteriorate over time. PacifiCorp does not want the BLM to perpetuate such a requirement, as there is no biological reason or benefit to justifying protections or surveys of unoccupied and dilapidated nests. As stated previously, USFWS nest protections apply only to active nests because there is not a biological reason or regulatory requirement to implement a buffer around an inactive nest. Under this alternative, BLM buffer distances for GOEA, FEHA, and burrowing owl (BUOW) are the same as USFWS guidance; however, BLM buffer distances conflict with USFWS for BAEA and “general raptor.” BLM fails to explain why a 2.5-mile buffer is used for BAEA (occupied and historic nests), when USFWS guidance is 330ft or 660ft, depending on the visibility of the activity (USFWS 2007). As noted

previously, a blanket buffer of ½ mile for other raptors is inconsistent with USFWS guidance, which uses species-specific buffers that are either 1/8, ¼, ½, or 1 mile. o All alternatives under Appendix J provide broad nesting dates. There should be flexibility to adapt nest buffer dates based on the actual nest activity dates. For example, buffers for Swainson’s hawks (SWHA) should not begin on February 1, as this species does not return from migration until well after this date (USFWS buffer dates start on April 1 for SWHA). Likewise, if an active raptor nest has fledged by June 25, the buffer should not be held until August 15. This is consistent with USFWS guidance regarding protection of active nests and reflects the spirit of MBTA to protect nests while they are active. o None of the alternatives under Appendix J are consistent with the lead agency (USFWS) for these species. Therefore, PacifiCorp questions the adequacy of BLM’s analysis for nest buffers, including consistency with other agency recommendations. PacifiCorp recommends that the BLM modify Alternative C to use species-specific buffer distances consistent with USFWS established buffers (see USFWS 2022), and maintain these buffers around active nests only, not historic nests. Likewise, buffer dates should be adaptable to actual dates of nesting activity as described above.

PacifiCorp dba Rocky Mountain Power

John Hutchings

Issue Excerpt Text: In addition to the above concerns with MA #4428, PacifiCorp notes that the BLM has failed to consider current USFWS regulatory changes to MBTA and BGEPA. USFWS is currently revising the regulations pertaining to bald and golden eagle permits (50 CFR Part 22) and contemplating making available permits to take other migratory birds protected under the MBTA. Should a company obtain either of these permits, raptor nest restrictions in the permits should supersede raptor nest restrictions in the BLM’s Management Plan. Likewise, current utility SPUT or Eagle Take Permits (ETP) issued by USFWS, as well as Chapter 33 permits issued by WGFD, should supersede BLM RMP management actions regarding nests of eagles and migratory birds. PacifiCorp recommends that the BLM adopt Alternative C of MA #4428, with the modification to Appendix J as detailed above. PacifiCorp recommends that this modification to MA #4428 also be used instead of Alternative A of MA #4429.

Alliance for Historic Wyoming

Megan Stanfill

Issue Excerpt Text: Given that the South Pass High Potential Segment is shared with the Lander FO, we believe it is reasonable to consider consistency with the Lander RMP for the NHTs. To protect the part of the South Pass High Potential Segment within the Lander FO, the 2014 RMP laid out specific management decisions for a protection corridor around the segment. They included: - Oil and Gas - No Surface Occupancy; - Geophysical Exploration - Closed; - Locatable Mineral Entry - Plan of Operations within the LFO’s South Pass Historic Landscape ACEC (near South Pass) - Major Rights of Way - Avoided except in designated utility corridors; - Wind Energy - Excluded This management comes up to the boundary of the Lander and Rock Springs FOs, and as the South Pass HPS continued for many miles into Rock Springs, similar management could be expected on the other side of the FO boundary given the consistency in the quality of the resource. But the Proposed Rock Springs RMP is not consistent with Lander’s management and provides inadequate protections for the resource. While the Proposed RMP takes a step in the right direction by establishing a five-mile (on each side) buffer of the NHTs (which we support), the management is deficient in the following ways.

Campbell, Converse, Crook, Niobrara, and Weston Counties

Fred Devish

Issue Excerpt Text: The National Environmental Policy Act (NEPA) establishes a national policy and goals for the protection, maintenance, and enhancement of the environment. Two key requirements of NEPA are that agencies consider alternatives and that the public officials and citizens are involved in the decision-making process. NEPA established a Council on Environmental Quality (42 US Code [USC] 4321 (1970)), which issued regulations for implementing provisions of the law

(40 Code of Federal Regulations [CFR] 1500-1508 (1970)). In these regulations is the requirement that federal agencies consider and use local planning documents during their decision making and planning efforts (40 CFR 1506.2 [1978] and 43 CFR 1610.3-2(a) (1983)). Furthermore, the Federal Land Policy and Management Act (FLPMA) provides a framework for managing public lands that requires a systematic, interdisciplinary approach and requires coordination in land-use planning with other state and federal agencies. Under FLPMA (43 USC 1712 [1976]), the BLM is required to stay apprised of local land use plans, assure consideration is given to local land use plans, assist in resolving inconsistencies with state and local land use plans, and provide meaningful opportunities for local government officials to participate in the development of land use programs, regulations, and decisions for public lands that may have a significant impact on non-federal lands such as state or private property. By BLMs own admission, on page 1-5 under “Relationship to Other Plans,” they declare that the “ ... land use plans and amendments must be consistent with officially approved or adopted resource- related plans, and the policies and programs contained therein, of other federal agencies, state and local governments, and Native American tribes, so long as the guidance and RMPs are also consistent with the purposes, policies, and programs of federal laws and regulations applicable to public lands.” BLM further explains on page 1-6 they acknowledge reviewing the following county plans for consistency: 1) Fremont County Wyoming Land Use Plan 2004, 2) Lincoln County Comprehensive Plan 2006, 3) Sublette County Federal and State Land Use Policy 2009, 4) Sweetwater County Comprehensive Plan 2002 and 5) Uinta County Comprehensive Plan 2011. However, there is no meaningful discussion presented anywhere in the document that describes the management actions in detail nor did the BLM utilize the most recent county plans that were approved as follows: 1) Fremont County Natural Resource Management Plan 2021, 2) Lincoln County Natural Resource Management Plan 2021, 3) Sublette, County Federal and State Land Use Policy 2021, 4) Sweetwater County Federal Lands and Resources Plan 2022 and 5) Uinta County Comprehensive Plan 2023.

Campbell, Converse, Crook, Niobrara, and Weston Counties

Fred Devish

Issue Excerpt Text: Throughout the FEIS, the BLM asserts that “consistency with other plans was accomplished through frequent communications, meetings, and cooperative efforts between the BLM interdisciplinary team and involved federal, state, and local agencies.” However, these statements merely reference meeting dates and plans reviewed, without explaining how the BLM ensured consistency between the RMP and local county natural resource plans. Furthermore, the BLM did not respond to WCCA’s Consistency Review Letter (Submission ID: DEIS-1- 500626417), undermining the credibility of their claims of coordination and making their response disingenuous at best. The BLM’s response to comments fails to address our concerns regarding the lack of internal consistency review. Instead of providing a substantive response, the BLM references updated sections and tables within the FEIS. Notably, Table 1-2 continues to list outdated land use plans, such as Fremont County’s. This repeated error in the Proposed RMP exemplifies the effort BLM has put forth to stay apprised of local plans, given them consideration during planning, and resolve inconsistencies. In summary, beyond blanket statements like “The interdisciplinary team reviewed county land use plans to ensure consistency” or “Meetings were held with respective county planners and commissioners,” the FEIS lacks any substantive discussion of how the BLM reconciled its proposed actions with county plans, as required under 40 C.F.R. § 1506.2(d). There is no discussion within the FEIS of any inconsistencies with local plans and the BLM has failed to describe the extent which the agency would reconcile the RMP with local plans. The BLM’s failure to provide meaningful analysis of these inconsistencies raises serious concerns about the adequacy of the RMP’s review process. The Counties again request that the BLM complete this exercise and meaningfully address the RMP’s inconsistencies with local plans, which must be reflected in the Record of Decision.

***Campbell, Converse, Crook, Niobrara, and Weston Counties
Fred Devish***

Issue Excerpt Text: BLM Failed to Adequately Respond to Counties Comments The BLM’s response to comments fails to address our concerns regarding the lack of internal consistency review as discussed above in section B (BLM Fails to Adequately Consider Consistency with Approved Local Government Plans). Instead of providing a substantive response, the BLM references updated sections and tables within the FEIS. For example, all five northeastern Counties submitted similar comments regarding the following: County comment 838 - General NEPA Compliance: #345-8 - “Furthermore, the County strongly urges BLM to review all of the local county natural resource plans (Fremont, Lincoln, Sweetwater, Sublette and Uinta Counties) affected by this decision and coordinate with the state and local county cooperating agencies that work, recreate and earn a livelihood in this area. Only then can the agency develop a preferred alternative that is consistent with those local plans as allowed by law and provides for a balance between conservation and protection and economic growth.” BLM response - “See Section 1.2.1 Purpose, and Sections 1.4-1.5 Planning Criteria and Relationship to Other Plans (including FLPMA and NEPA). See section 2.2.3 regarding Alternatives Development Process. See sections 5.1.1-5.1.2 regarding public involvement and government consultation and coordination in developing all alternatives.” This repeated example exemplifies the effort BLM has put forth to stay apprised of local plans, given them consideration during planning, and resolve inconsistencies. As an example, throughout the FEIS the BLM asserts that “consistency with other plans was accomplished through frequent communications, meetings, and cooperative efforts between the BLM interdisciplinary team and involved federal, state, and local agencies.” However, these statements merely reference meeting dates and plans reviewed, without explaining how the BLM ensured consistency between the RMP and local county natural resource plans. Furthermore, the BLM did not respond to WCCA’s Consistency Review Letter (Submission ID: DEIS-1- 500626417), undermining the credibility of their claims of coordination and making their response disingenuous at best. In summary, beyond blanket statements like “The interdisciplinary team reviewed county land use plans to ensure consistency” or “Meetings were held with respective county planners and commissioners,” the FEIS lacks any substantive discussion of how the BLM reconciled its proposed actions with county plans, as required under 40 C.F.R. § 1506.2(d). There is no discussion within the FEIS of any inconsistencies with local plans and the BLM has failed to describe the extent which the agency would reconcile the RMP with local plans. The BLM’s failure to provide meaningful analysis of these inconsistencies raises serious concerns about the adequacy of the RMP’s review process. The Counties again request that the BLM complete WCCA Consistency Review table and meaningfully address the RMP’s inconsistencies with local plans, which must be reflected in the Record of Decision.

Summary:

The BLM violated FLPMA, NEPA, the Migratory Bird Treaty Act (MBTA), the Bald and Golden Eagle Protection Act (BGEPA), U.S. Fish and Wildlife Service (USFWS) guidance, the Wyoming Environmental Quality Act, and the Industrial Development Information and Siting Act and was inconsistent with the Governor’s Task Force recommendations and county land use plans by:

- Proposing a plan to open both Sugarloaf Basin and Pine Mountain Management Areas to surface-disturbing activities such as oil and gas leasing/development.
- Claiming authority over environmental regulation programs and has failed to recognize WDEQ’s primacy over environmental regulation for specific programs in the State.
- Failing to recognize the authority of WDEQ/Water Quality Division (WQD) to authorize surface water discharges.
- Failing to include a substantive discussion detailing how the PRMP is consistent with local land use plans, failing to update its list of local plans with the most recent versions, and failing to

- describe how inconsistencies between the PRMP and local plans would be reconciled.
- Failing to adequately respond to comments requesting that the BLM make the PRMP consistent with local plans from the Draft Environmental Impact Statement (EIS).
 - Failing to align the PRMP with USFWS regulations regarding raptor nest criteria, buffer distances and protections, and surveying/monitoring of historic nests.
 - Failing to consider regulatory changes USFWS is currently making to the MBTA and BGEPA, such that current and future utility special purpose utility permit or migratory bird take permits issued by USFWS should supersede the BLM's RMP management actions and restrictions regarding raptor nests, eagle nests, and migratory birds.
 - Failing to manage the South Pass High Potential Segment in a manner that is consistent with the management actions authorized by the 2014 Lander Field Office RMP.

Response:

Section 202(c)(9) of FLPMA requires that "land use plans of the Secretary under this section shall be consistent with state and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act." However, BLM land use plans may be inconsistent with State, local, and Tribal plans where it is necessary to meet the purposes, policies, and programs associated with implementing FLPMA and other Federal laws and regulations applicable to public lands (43 CFR 1610.3-2(a)).

In accordance with this requirement, the BLM has given consideration to State, local, and Tribal plans that are germane to the development of the RSFO PRMP/FEIS. The BLM has worked closely with State, local, and Tribal governments during preparation of the RSFO PRMP/FEIS. Chapter 5 describes coordination that has occurred throughout the development of the RSFO PRMP/FEIS (pp. 5-1 through 5-11) including listing which agencies actively participated as a cooperating agency for the effort. As shown in this list, local counties and conservation districts as well as WDEQ and USFWS did participate as cooperating agencies during development of the RMP (RSFO PRMP/FEIS pp. 5-2 through 5-3). The BLM worked closely with cooperating agencies throughout the development of the RMP as described in Section 5.1.1 (RSFO PRMP/FEIS p. 5-3). Additionally, meetings were held with the appropriate county planners and commissioners to promote greater understanding of goals, objectives, and resources of the counties and the BLM. Table 5-2 in Section 5.1.2 summarizes coordination actions undertaken by various Federal, State, and local agencies for the RMP development process (RSFO PRMP/FEIS pp. 5-4 through 5-5).

A list of the local, State, and Tribal plans that the BLM considered can be found in Section 1.5 of the RSFO PRMP/FEIS (pp. 1-5 through 1-6). Appendix E provides a list and description of Federal laws, regulations, and policies that apply to the BLM during this process and includes the MBTA and BGEPA (RSFO PRMP/FEIS pp. E-1 through E-17).

A primary objective of the BLM Special Status Species policy is to initiate proactive conservation measures that reduce or eliminate threats to Bureau-sensitive species to minimize the likelihood of and need for listing of the species under the Endangered Species Act (BLM Manual Section 6840.02.B). The BLM considered a range of alternatives as it relates to raptor nest buffer distance and protection criteria. These alternatives are analyzed in Section 2.2.6 Management Actions 4428–4434 (RSFO PRMP/FEIS pp. 2-43 and 2-44), which meet the minimum protection criteria set forth by USFWS. Additional seasonal wildlife restrictions by alternative are also outlined in Appendix J, *Seasonal Wildlife Restrictions*. The agency will discuss why any remaining inconsistencies between the RSFO PRMP/FEIS and relevant local, State, Federal, and Tribal plans cannot be resolved in the ROD for the RSFO PRMP/FEIS.

The RSFO PRMP/FEIS also proposes multiple goals, objectives, and action items to continue to work cooperatively with local governments and State agencies to implement the RMP and address various

resource issues applicable to BLM actions including Management Actions 1005 through 1009 related to achieving air quality goals and objectives (RSFO PRMP/FEIS p. 2-4). The planning criteria in Chapter 1, Section 1.4 (pp. 1-4 through 1-5), also state that the RSFO PRMP/FEIS recognizes the State's responsibility and authority to manage wildlife and that "the Wyoming Constitution defines that all natural waters within the boundaries of the state are declared to be the property of the state and the Wyoming State Engineer's Office is charged with the regulation and administration of the water resources in Wyoming" (RSFO PRMP/FEIS p. 1-5). The water policy of the BLM is to acquire and perfect Federal reserved water rights necessary to carry out public land management purposes. If a Federal reserved water right is not available, then the BLM will acquire and perfect water rights through State law (BLM Manual Section 7250.1.2.A). The BLM has no specific regulatory authority related to use of water or enforcement of water quality laws. The RSFO PRMP/FEIS makes no decisions regarding water rights.

The BLM satisfied FLPMA's consistency requirement in preparation of the RSFO PRMP/FEIS and does not violate existing water rights, nor does it grant, claim, or establish water rights. Accordingly, this protest issue is denied.

FLPMA: Valid Existing Rights

Sweetwater County Board of County Commissioners

Keaton West

Issue Excerpt Text: BLM Manual 6280 at 4-5 (Sept. 14, 2012). The BLM should consider proposed or existing land uses, valid existing rights, and other interests in the land. Id. at 4-5 - 4-6. A trail corridor should be located to avoid "highways, motor roads, mineral rich areas, power transmission lines, commercial and industrial developments, range fences and improvements, private operations, and any other foreseeable activities that would be incompatible with the purposes of the trail." Id. at 4-6. The width can vary and does not need to be continuous through the planning area. Id. The BLM does not provide any explanation for the width of the National Trails Management Corridor nor does it explain other resource values and existing uses that it considered in proposing this five miles on either side of historically designated trails. The most glaring issue with the corridor is that it fails to consider valid existing leasing and mineral activity in the planning area. The BLM only recognized this for the northwestern portion of the planning area. See RMPA and FEIS at 2-89 (Mgmt. Action #7002). However, there are numerous existing leases within the northern portion of the Corridor and on either side of Highway 372 where the Corridor passes through the Checkerboard. Compare id. at Map 2-40 with id. at Map 3-8. This Checkerboard area is also part of the Known Sodium Lease Area and management prescriptions that prohibit surface disturbing activities are inconsistent with development that is occurring in this area and further prevent development on neighboring private lands. See RMPA and FEIS at 3-89 (Mgmt. Actions #7003, 7004), Map 3-10.

Petroleum Association of Wyoming & Western Energy Alliance

Colin McKee

Issue Excerpt Text: The BLM's preferred management actions for oil and natural gas leasing and ROWs could have implications to valid existing rights. Eliminating operators' ability to lease additional acreage may inhibit their ability to properly develop existing leases. Removing their ability to access the existing leased areas through ROW exclusions will remove their ability to develop sites, connect necessary electric infrastructure and transport product off site. It eliminates the purpose for which the existing leases were purchased and eliminates their value - including the bonus bid to purchase the leases, annual rental payments and any future revenues generated from production of oil and natural gas resources. Federal lessees have a legal right to occupy the surface to explore for, produce and develop oil and natural gas resources on their leases, subject only to the stipulations contained in their lease at the time of issuance. See *Pennaco Energy v. United States Dep't of the*

Interior, 377 F.3 d 1147, 1160 (10th Cir. 2004). The BLM cannot terminate, modify or alter any valid or existing property rights - such as existing oil and natural gas leasing rights - or apply unduly restrictive conditions or stipulations that would significantly impede or impair new or continued development of existing leases and other rights, like instituting restrictive ROW policies which impede a right-holder's ability to access and develop their lease. See *Colorado Environmental Coal., et al.*, 165 IBLA 221, 228 (2005) (citing *Colorado Environmental Coal.*, 135 IBLA 356, 360 (1996) *aff'd*, *Colorado Environmental Coal. v. Bureau of Land Management*, 932 F. Supp. 1247 (D. Colo. 1996)); *Mitchell Energy Corp.*, 68 IBLA 219, 224 (1982). These lands require ROW through federally managed lands for utilization. Without that access, the value of their mineral potential goes to zero. The BLM must respect this charge given to the state and ensure that no actions taken within this RMP impede the state's ability to fund these activities. 43 C.F.R. § 1610.3- 2 outlines the discretion afforded to states and a Governor's ability to make state policies known to the BLM through a consistency review. The Associations can think of no higher instance of where federal government deferral is warranted than to a state Constitutional mandate.

PureWest

Kelly Bott

Issue Excerpt Text: Under the Federal Land Policy Management Act (FLPMA), BLM is required to recognize valid existing lease rights. 43 U.S.C. § 1701 note (h) (“All actions by the Secretary concerned under this Act shall be subject to valid existing rights.”); see also 43 C.F.R. § 1610.5-3(b); BLM Manual 1601.06G (“All decisions made in land use plans, and subsequent implementation decisions, will be subject to valid existing rights.”). Valid existing rights are not pre-empted, or otherwise excused, by BLM's future determinations for resource protection. Pursuant to federal statute, BLM cannot terminate, modify, or alter valid existing property rights. *Id.* Oil and gas leases are contracts between the federal government and private parties, which provide the private lessees the right to explore for, produce, and sell, a mineral. This binding contract governs the development of the leased minerals. *Mobil Oil Exploration & Producing S.E., Inc. v. U.S.*, 530 U.S. 604, 607-08 (2000). Subsequent action by BLM is controlled by the terms of the contract, and lessees are entitled to use “the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold “ 43 C.F.R. § 3101.12. Valid existing rights override subsequent land use designations, including areas of critical environmental concern (ACECs) designation or other land use or resource designations. Indeed, federal courts and the Interior Board of Land Appeals (IBLA) have consistently held that operators may develop their existing leases within later designated areas of special emphasis if BLM issued their leases prior to the special designation. See, e.g., *Colo. Envtl. Coal. v. BLM*, 932 F. Supp. 1247, 1251 (D. Colo. 1996); *Colo. Envtl. Coal.*, 135 IBLA 356, 359-360 (1996); *SUWA*, 100 IBLA 63 (1987); *Utah Wilderness Coal.*, 91 IBLA 124, 125, 130 (1986). Federal courts have held that lease rights constitute financial and real property interests, *W. Watersheds Project v. Haaland*, 22 F.4th 828, 834 (9th Cir. 2022), and have interpreted valid existing rights to mean that federal agencies cannot impose stipulations or conditions of approval that make development on existing leases either uneconomic or unprofitable. See *Utah v. Andrus*, 486 F. Supp. 995, 1011 (D. Utah 1979). BLM cannot prohibit lessees from developing their leases. *Nat'l Wildlife Fed.*, 150 IBLA 385, 403 (1999). Only Congress has the right to completely prohibit development once a lease has been issued. *W. Colorado Congress*, 130 ILA 244, 248 (1994). Further, denying the ability to develop valid existing lease rights may constitute a taking in violation of the 5th Amendment to the U.S. Constitution. Based on federal statute and BLM's own regulation and guidance, as well as federal and IBLA case law, BLM must recognize PureWest's valid existing lease rights in the Subject Leases even if the Rock Springs ROD does continue closed for leasing and ROW exclusion areas over the Subject Leases. III. REQUESTED REVISIONS TO ROCK SPRINGS PRMP PureWest protests the Rock Springs PRMP and requests that BLM provide greater clarity of its obligations to respect valid existing leases. Specifically, BLM must provide more parameters regarding valid existing lease rights. In the Rock Springs PRMP, BLM states that “[v]alid existing

rights would be maintained even if the area containing those rights was proposed for closure or withdrawal.” Rock Springs PRMP, Section 4.11.1 at 4-79. Yet just three sentences later, the PRMP states that “[p]ost lease actions/authorizations (e.g., APDs, road/pipeline ROWs), however, could be encumbered by conditions of approval (COA) restrictions on a case-by-case basis, as required through project- specific NEPA analysis or other environmental review.” Id. BLM must make clear that it cannot require COAs or other restrictions beyond what was already included as lease stipulations to the Subject Leases which would deprive PureWest of its contractual right to develop its valid existing lease rights on the Subject Leases. BLM must allow reasonable access to and development of the Subject Leases. Thus, BLM must revise its direction to the Rock Springs Field Office regarding the ability to add COAs to permit approvals for the development of the Subject Leases to ensure that the Bureau respects and recognizes PureWest’s property rights.

Summary:

Protestors stated that the BLM violated FLPMA by authorizing ROW exclusions or special designations such as ACECs that will prevent the ability of operators to properly develop existing leases for which they have valid existing rights and may require COA restrictions.

Response:

An oil and gas lease is a valid existing right, which cannot be modified through the land use planning process (FLPMA, Section 701(h)). Lease stipulations proposed in the RSFO PRMP/FEIS would not be applied to existing oil and gas leases.

The BLM may restrict development of an existing oil and gas lease through COAs. However, the application of COAs is outside the scope of the land use planning process; rather, the BLM analyzes and develops COAs at a site-specific level once a project is proposed. When making a decision regarding discrete surface-disturbing activities (e.g., Application for Permit to Drill) following site-specific environmental review, the BLM has the authority to impose reasonable measures (e.g., COAs) to minimize impacts on other resource values, including restricting the siting or timing of lease activities (43 CFR 3100; 43 CFR 3160; IBLA decisions [Yates Petroleum Corp., IBLA 2006-213, 2006-226 and William P. Maycock, IBLA 2008-197, 2008-200]). In its RMPs, the BLM may identify “general/typical conditions of approval and best management practices” that may be employed in the planning area (BLM Handbook H-1601-1, p. C-24).

The RSFO PRMP/FEIS’s purpose and need explicitly state that, “The Rock Springs RMP will address changing needs of the planning area by updating information and revising management goals, objectives, and decisions while ensuring that public lands are managed according to the principles of multiple use identified in FLPMA *while maintaining the valid existing rights* and other obligations already established” (emphasis added) (pp. 1-2). The RSFO PRMP/FEIS does not modify existing oil and gas leases. Rather, the RSFO PRMP/FEIS identifies potential COAs that may be applied during future decision-making following site-specific environmental review in the planning area. These COAs are provided in RSFO PRMP/FEIS Appendix B, *Stipulations: Exceptions, Modification, and Waiver Criteria*.

The RSFO PRMP/FEIS does not violate valid existing rights. Accordingly, this protest issue is denied.

FLPMA: Withdrawals

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: Misuse of Areas of Critical Environmental Concern (ACEC's) and Improper Mineral Withdrawal Process The BLM has re-engaged the cooperators since the release of the DEIS. However, little has changed in the document related to solid minerals and their needed future development, especially in the critical mineral sector. The BLM has continued to misuse ACEC's to arbitrarily withdraw solid mineral reserves from development without conducting a proper mineral withdrawal as prescribed by the Federal Land Policy and Management Act of 1976 (FLPMA), and the Mineral Leasing Act of 1920 (MLA). The BLM should remove the use of ACEC's relating to solid mineral reserve withdrawals and commit to conducting the formal mineral withdrawal process as required under the MLA as amended. The BLM's attempt to use ACECs as a means of stopping mineral development violates FLPMA. Under FLPMA, the "term 'withdrawal' means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than "property" governed by the Federal Property and Administrative Services Act" FLMPA, § 103(j), 43 U.S.C. § 1702 (emphasis on the portions of the definition not included by the BLM). Thus, the BLM has excluded language from the definition in an apparent attempt to obfuscate the true scope of the statute. Moreover, the federal courts have considered the very issue raised by the various DEIS commentators. "A withdrawal withholds land from operation of one or more of the general land and mineral disposal laws, including the 1872 Mining Law, as amended, 30 U.S.C. §§ 22, et seq., the Mineral Leasing Act, 30 USC. §§ 181-226-2, and the Geothermal Steam Act, 30 U.S.C. §§ 1001-1025." *Nat' Wildlife Fed'n v. Burford*, 835 F.2d 305, 308 (D.C. Cir. 1987) (emphasis added). This focus on the effect of an action which removes lands from mineral production is bolstered by other provisions of FLPMA that require the Secretary of Interior to review withdrawals existing as of October 1976 in Wyoming and other western states when the action "closed the lands ... to leasing under the Mineral Leasing Act of 1920" FLMPA, § 204(1), 43 U.S.C. § 1714. The BLM should review Formal and De Facto Federal Land Withdrawals and Their Impact on Oil and Gas And Mining Development in the Western States, Laura Lindley and Robert C. Mathes, 48 *Rocky Mountain Mineral Law Institute* 25 (2002). As this article explains in detail "public lands cannot be closed to mining location under a land use plan, unless the lands have been 'withdrawn' pursuant to the express terms of [FLPMA] section 204." *Id.* at 8, § 25.03[5]. The article goes on to note: "it has been suggested that the definition of withdrawal in FLPMA (and hence the procedural requirements attendant to a withdrawal) does not include withholding lands from mineral leasing. This was precisely the argument made by the Secretary in *Pacific Legal Foundation v. Watt*, [529 F. Supp. 982] but rejected by the federal district court in Montana." *Id.* Thus, it is abundantly clear the decision to withhold approximately 481,000 acres² of land in the Known Recoverable Coal Area (KRCA) from coal leasing is a withdrawal, which can be lawfully accomplished only if the BLM had followed the procedural requirements of Section 204 of FLPMA. It thus fails as a matter of law.

Summary:

Protestors stated that the BLM violated FLPMA and the MLA by using ACECs to withdraw solid mineral reserves from development without conducting a proper mineral withdrawal.

Response:

43 U.S.C. 1714(c) is related to withdrawals of lands greater than 5,000 acres. The closure or restriction of public lands to mineral leasing through the land use planning process pursuant to Section 202 of FLPMA does not constitute a withdrawal under FLPMA. Withdrawals are pursued in a decision-making process outside of the planning process by the Department of the Interior's Office of the Secretary pursuant to the procedures and requirements in Section 204 of FLPMA; they are specifically defined by Section 103(j) of FLPMA as follows: "the term 'withdrawal' means withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land . . . from one department, bureau or agency to another department, bureau or agency" (43 USC 1702(j)).

The terms "settlement," "sale," "location," and "entry" are all terms contemplating transfer of title to the lands in question, particularly the patenting, or potential patenting, of lands out of Federal ownership into the hands of private parties based on the provisions of the General Mining Law of 1872, as amended, the various Homestead Acts, and other general land law. It is inapplicable to oil and gas leasing occurring under the MLA. A Federal mineral lease sale is not a "sale" of public land under Section 203 of FLPMA, and a closure to leasing is not a "withdrawal" as described in Section 204 of FLPMA.

The BLM is not required to complete the procedures associated with a withdrawal when it proposes during the land use planning process to close or restrict public lands in the planning area to mineral leasing in the RSFO PRMP/FEIS. These proposed closures or restrictions would not create withdrawals; however, some alternatives may recommend areas for withdrawal to the Secretary of the Interior and Congress. Withdrawal actions are a separate process from the RMP/EIS, and there is no requirement that the Secretary of the Interior or Congress act on them. Per FLPMA the Secretary of the Interior may make withdrawals, administratively, aggregating 5,000 acres or more for purposes other than military use, for a period of not more than 20 years.

The BLM is not required to complete the procedures associated with a withdrawal when it proposes to close or restrict public lands in the planning area to mineral leasing in the RSFO PRMP/FEIS. The RSFO PRMP/FEIS does not withdraw public lands from mineral development. Accordingly, this protest issue is denied.

National Historic Trails

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: Creating a 10-mile-wide corridor around national historic and scenic trails constitutes an illegal buffer zone and does not comply with the National Trails System Act (NTSA). The NTSA is designed to protect the trail itself and its immediate environment to preserve its scenic, historic, and recreational values. It does not authorize the creation of extensive buffer zones that extend far beyond the trail's boundaries. A 10-mile-wide corridor would exceed the scope of the NTSA's provisions, which focus on safeguarding the natural and cultural resources directly associated with the trail and ensuring public access to enjoy its intrinsic qualities. Expanding protection to such a vast area effectively creates a buffer zone that restricts land use and management activities well beyond what the law intended. The NTSA's primary goal is to ensure the integrity of the trail's pathway, vistas, and user experience, not to impose unnecessary land use restrictions over a wide area. This would infringe on private property rights, potentially conflict with other legal land uses, and could exceed the federal government's authority under the NTSA. As such, the creation of a

10-mile-wide corridor around a national scenic trail would be legally overreaching and non-compliant with the Act's specific mandates.

Summary:

Protestors stated that the BLM violated the NTSA by creating a 10-mile-wide corridor around National Historic and Scenic Trails, exceeding the scope of the NTSA.

Response:

The NTSA, 16 U.S.C. 1241–1251, as amended, promotes the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas, and historic resources of the United States; provides the means for attaining these objectives by instituting a National Trails System (NTS); prescribes the methods and standards for adding NTS components; and encourages partner involvement in the planning, development, operation, maintenance, and, where appropriate, operation and maintenance of NTS components. NTSA 16 U.S.C. 1244(a)(23) protects National Trails and NTSA 16 U.S.C. 1246 grants the Secretary of the Interior the administration and management of them.

There are three BLM Manuals that address the NTS: BLM Manuals 8353, 6250, and 6280. BLM Manual 8353 provides guidance on the management of secretarially designated National Recreation Trails, including National Water Trails and Connecting and Side Trails. BLM Manual 6250 outlines the policies and procedures for administering congressionally designated National Scenic and Historic Trails. BLM Manual 6280 focuses on the management of National Scenic and Historic Trails and trails under study or recommended for Congressional designation.

The BLM analyzed a full range of alternatives regarding the establishment of a corridor or buffer around existing NHTs, which is provided in Management Action 7002 (RSFO PRMP/FEIS p. 2-89). Alternative A establishes a 0.25-mile buffer or the visual horizon of any contributing trail segment as an avoidance area for surface-disturbing activities. Alternative B designates lands within 5 miles on each side of NHTs as the trail management corridor. Alternative C avoids surface-disturbing activities within 0.5 mile of any contributing NHT segment if it would be visible from the trail. Alternative D and the PRMP designate lands within 5 miles on each side of the NHTs and the Continental Divide National Scenic Trail and Connecting Side Trail as the National Trail Management Corridor. As such, the BLM developed a reasonable range of alternatives, all of which meet the purpose and need of the RSFO PRMP/FEIS and allow for some level of support, protection, or use of all resources in the planning area.

Neither the NTSA nor BLM national trails policy requires the BLM to identify specific limitations or specific allowable discretionary uses on national trails at the land use planning level. RMPs are designed to guide and control future management actions and the development of subsequent, more detailed, and limited-scope plans for resources and uses (43 CFR 1601.0-2). Per BLM Manual 6280, allocation of a National Trail Management Corridor must be “of sufficient width to encompass National Trail resources, qualities, values, and associated settings and the primary use or uses that are present or to be restored.” The BLM determined that 5 miles on either side of the trail was a sufficient width to encompass the resources, qualities, values, and associated settings and the primary use or uses of the NHTs and the Continental Divide National Scenic Trail and Connecting Side Trail.

The RSFO PRMP/FEIS complied with regulations within the NTSA specific to management of the National Historic and Scenic Trails in the RSFO and fulfilled its statutory requirements under NEPA. Accordingly, this protest issue is denied.

NEPA: Best Available Information

Wyoming State Parks and Cultural Resources

CarryAnn Carruthers

Issue Excerpt Text: Use of outdated economic impact data fails to adequately forecast potential impacts. Tables in Appendix N show no difference in recreation impact over the five alternatives, despite presenting a vastly different landscape to recreate within, especially for Alternative B with a much-limited motorized access. Wyoming Trails Program constituents include both Wyoming residents and a substantial number of nonresident OHV and OSV riders and it is unreasonable that limited off-road access wouldn't result in a reduction of visitors and therefore economic impact. Such impacts should be reflected in the recreation impact tables. The National Forest NVUM with the Ashley National Forest remains an inappropriate proxy, and recent economic impact studies like the 2021 Wyoming Comprehensive Off-Road Vehicle (ORV) Report (Bastian et al, 2022) which calculates over \$365 million in economic activity from ORV activity and provides data for visitor days and visitor trips, should be cited. That report shows \$55.8 million in annual impact from ORV use in this area of Wyoming. Local outdoor recreation collaboratives continue to identify desired growth opportunities in the outdoor recreation sector; plans and meeting minutes from these groups could be referenced as well. The lack of detail in this portion of the analysis is inadequate, showing BLM failed to identify reasonably foreseeable direct, indirect, and cumulative impacts associated with recreation in general, and with OHV and OSV recreation more specifically. Suggested Relief: The uniformity of recreation impacts calls the analysis into question; the economic analysis should better reflect the impact of recreation and reflect the current recreation trends and spending levels. Up-to-date data should be modeled (the National Forest NVUM with the Ashley National Forest remains an inappropriate proxy), recent economic impact studies should be cited (especially the 2021 Wyoming Comprehensive Off-Road Vehicle (ORV) Report, Bastian et al, 2022), and the five alternatives should more accurately show where expected visits and therefore the economic impacts of various recreation activities would be expected to increase or decrease.

Mountain States Legal Foundation

Robert Welsh

Issue Excerpt Text: The Alternative Analysis Is Unreasonable. Put simply, BLM used old, stale data. We objected to the use of bad data in our comment letter, but the Bureau refuses to act reasonably. When addressing our concerns about the use of scientific data from 2013 and even earlier, BLM dismissed the concerns by falsely saying that it was only using bad data for the purposes of comparison. However, this cannot be the case as the original preference for alternative B was a predetermined outcome of the alternatives analysis, see id. at 1:04:40-1:05:19 (hr:min:sec) (the decision to deviate from the status quo “wasn’t really in the hands of BLM Wyoming”), and therefore, the only thing BLM has done by providing this new alternative is slightly shift the goalposts away from their original alternative B, so as to keep the result as close to alternative B as it can. The Bureau has made no effort to correct its use of bad data. Our arguments remain outstanding: (1) BLM must rely on the best available scientific information, not bad, old data; (2) BLM is writing important uses out of FLPMA through its unreasonable analysis; (3) and BLM has predetermined the outcome of its alternatives analysis and has therefore not taken a hard look at the consequences of its actions.

Wyoming Oil and Gas Conservation Commission

Tom Kropatsch

Issue Excerpt Text: In response to WOGCC’s comment 13658-10 BLM points to Section 4.19. This section does not discuss the impacts to development from ROW exclusion. Nothing in the cited sections constitutes a response to WOGCC’s comment or cures the deficiencies of the analysis. BLM continues this line of reasoning in response to WOGCC comment 13658-18 stating, “even if

conditions have changed in the intervening years, the baseline data is adequate to compare conditions and differentiate resource impacts among the alternatives.” This response is not in accordance with NEPA. The EIS is inherently a document that analyzes and discloses the impacts of federal decisions. Using data BLM knows are not even close to correct to perform other quantitative analyses (e.g. Socioeconomics and GHG emissions) and pretending that the outputs are even a soft look at the impacts of the RMP is irresponsible and does not comply with NEPA.

BlueRibbon Coalition

Simone Griffin

Issue Excerpt Text: When conducting an environmental impact assessment under the National Environmental Policy Act (NEPA), the use of outdated scoping data-such as data from over 12 years ago-fails to comply with NEPA’s core requirements. NEPA mandates that federal agencies take a “hard look” at the current and foreseeable environmental impacts of proposed actions, which inherently requires up-to-date, accurate, and relevant data. Environmental conditions, public concerns, and the nature of potential impacts may change significantly over time. Using scoping data from 12 years ago does not account for recent developments, new scientific knowledge, or evolving environmental baselines. This can lead to incomplete or inaccurate evaluations, which compromises the integrity of the decision-making process and violates NEPA’s intent to ensure informed, transparent, and timely consideration of environmental consequences. Moreover, NEPA regulations require agencies to involve the public in a meaningful way during the scoping process. Relying on outdated data ignores the potential shift in public values, community concerns, and environmental priorities, thereby undermining effective public participation. Consequently, using such outdated data fails to meet NEPA’s procedural and substantive standards.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: Outdated National Emission Inventory (NEI) Data The BLM fully disregarded multiple air quality comments from several commenters related to usage of old 2014 National Emissions Inventory (NEI) data. Newer 2020 NEI data are available for more up-to date analyses, which the BLM has ignored.¹ In response to observations like this, BLM baselessly asserts rather than demonstrates that the baseline data used are adequate to compare conditions and differentiate resource impacts among the alternatives. They instead suggested that any difference in the intervening years must be minor (e.g., see BLM’s response to comment #13624-29 in Appendix W of the FEIS). This response proves how utterly deficient BLM’s understanding of Wyoming’s emissions inventory tracking is. For instance, emissions reporting for oil and gas production sites became more robust in 2020, as a majority of operators switched from area source reporting to point source reporting.

Wyoming Oil and Gas Conservation Commission

Tom Kropatsch

Issue Excerpt Text: WOGCC pointed out in comment 13658-6 that BLM failed to consider the effects of the RMP decisions on state and fee lands that were landlocked by Federal Lands within an area designated as Right-of-Way (ROW) exclusion. BLM’s response was to cite the management actions for which areas are open to ROWs and the planning criteria in Section 1.4. This is not a response. It does not speak to WOGCC concerns in any way or cure the deficiencies in the RMP. WOGCC explained in comments 13658-8 and 13658-9 that the Reasonably Foreseeable Development (RFD) analysis used in the RMP is outdated and inappropriate. BLM’s response was that the data was not available citing 4.2.2 for an explanation. However, Section 4.2.2 generally describes major areas where data might not be available, none of which are related to the RFD. BLM is the curator of most of the data necessary for an RFD so BLM can hardly argue that it does not have access to the data or that it is not readily available. The State of Wyoming also holds much of the data necessary for the RFD, which it would have readily provided if the BLM had indicated they needed additional

information. BLM also pointed to their executive summary where they state in part, “The inventoried data in the Rock Springs Field Office remains consistent with current conditions in the scope of the resource area and portrays the existing management situation.” This is a patently false statement as described in WOGCC’s comments and flatly contradicts the definition BLM provided for the RFD on page GL-25 and the planning criteria in Section 1.4, which reiterates that BLM will use current data. Additionally, BLM makes statements like the following from page P-14 “Estimated emissions from oil and gas development for all alternatives were calculated using a reasonably foreseeable development rate based on historical development rates for federal wells within the planning area over the last 20 years.” Any person reading this document would assume BLM stating the last 20 years meant approximately 2003-2023. Based on the data provided WOGCC can only assume they mean a period at least a decade older than that.

Wyoming Oil and Gas Conservation Commission

Tom Kropatsch

Issue Excerpt Text: Furthermore, BLM is using GHG emissions that are inaccurate from the outset as described in WOGCC comment 13658-19. BLM responded to this comment by stating that global scale is outside the scope of NEPA. BLM’s response is deficient because it only addressed part of the comment. If BLM wants to restrict their analysis to the United States, the same point holds. The WOGCC cited a paper (see Attachment A) describing how Green River Basin emissions were generally the lowest in the US. BLM did not consider this information or alternative locations in the US where the oil and gas production would come from. Alternative C should have the lowest net GHG emissions from Oil and Gas. The information presented does not constitute a meaningful response to WOGCC’s comments. BLM is so dismissive of WOGCC’s comments that they even ignored the most basic of changes noted in WOGCC comment 13658-27, the increase of the federal royalty rate. Despite WOGCC’s comment BLM couldn’t be bothered to make any attempt at incorporating the new royalty rate into the analysis and continues to use the legacy rate of 12.5% for federal royalties. BLM’s responses to WOGCC comments 13658-18, 25, and 28 simply refer to the socioeconomic analysis and Section 4.2.2. These sections are based on the previously discussed erroneous RFD and are therefore inaccurate. This does not constitute a response to WOGCC’s comments about the deficiencies of the analysis. WOGCC’s comment 13658-22 and 23 details how ROW exclusions affect existing leases. BLM cited Sections 1.4 and 4.1.1, which do not discuss the issue WOGCC described. BLM has simply ignored WOGCC’s comments.

Summary:

Protestors stated that the PRMP is in violation of NEPA, as it fails to use the best available data in its decision-making process and economic impacts analysis, including basing analyses on data from 2013. Protestors also claimed that the BLM violated NEPA by improperly responding to comments on the Draft EIS, and by failing to take a “hard look” and use accurate data to analyze the impacts of the RMP as it relates to ROWs. As a result, protestors also claim that the BLM used flawed and outdated information to inform its analysis regarding the RFD of oil and natural gas wells.

Response:

NEPA requires the BLM to “ensure the professional integrity, including scientific integrity, of the discussions and analyses in an environmental document” (42 U.S.C. 4332(d)). The Council on Environmental Quality’s (CEQ) regulations implementing NEPA further require that agencies use information that is of “high quality” (40 CFR 1500.1(b)).

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).

As explained in Washington Office Instruction Memorandum 2004-089: “The RFD projects a baseline scenario of activity... The baseline RFD scenario provides the mechanism to analyze the effects that discretionary management decisions have on oil and gas” (Washington Office Instruction Memorandum 2004-089, Attachment 1, p. 1-1). The fundamental purpose of the RFD is to make a reasonable estimation of the overall level of development anticipated (i.e., number of wells) over a specified time horizon (e.g., 20 years), as opposed to predicting the actual number of wells in a given future year, because the overall level of development is the basis for comparing relative impacts across the alternatives. Therefore, the RFD is not meant to be continually updated as new development occurs; the RFD is valid as long as the overall level of development assumed is still valid.

BLM guidance states that RFDs should be “based on a reasonable, technical, and scientific estimate of anticipated oil and gas activity based on the best available information and data at the time of the study” (Washington Office Instruction Memorandum 2004-089, Attachment 1). The BLM has verified that the overall level of development contemplated in the RFD remains valid. The RFD is available on the project’s ePlanning website: <https://eplanning.blm.gov/eplanning-ui/project/13853/570>. The BLM relied on the best available information at the time the RFD for the RSFO PRMP/FEIS was prepared. If the impacts from future oil and gas development were to exceed the impacts analyzed in the RSFO PRMP/FEIS, then, at the development stage, additional NEPA analysis for the development may be appropriate.

Additionally, 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 all public comments submitted on the Draft RSFO RMP/EIS. The BLM complied with 40 CFR 1503.4 by performing a detailed comment analysis that assessed and considered all substantive comments received. Appendix W of the RSFO PRMP/FEIS presents the BLM’s responses to all substantive comments, including specific updates made to the RSFO PRMP/FEIS as a result of comments. It is important for the public to understand that the BLM’s comment response process does not treat public comments as if they were a vote for a particular action. The comment response process ensures that every comment is considered at some point when preparing the RSFO PRMP/FEIS.

Regarding comments related to the RFD, the BLM summarized the issues raised by each comment letter and provided a meaningful response regarding baseline data to inform the RFD. Section 4.2.2 addresses the availability of data and incomplete information regarding site conditions and the intent to use subsequent project-level analyses and site-specific inventory data to determine the appropriate application of the RMP-level guidance (RSFO PRMP/FEIS p. 4-1). Additionally, as stated in Section 3.1, “most of the baseline data gathered from 2013 has been kept static for comparative analysis purposes” and is adequate to compare conditions and differentiate resource impacts among the alternatives (RSFO PRMP/FEIS p. 3-1). It is the BLM’s policy to perform a review of planning decisions when new circumstances or information arise (BLM Handbook H-1601-1, pp. 37–44). The BLM typically performs these reviews as new information is available or on a 5-year evaluation schedule. Should an amendment or revision of the RMP be necessary, the BLM will follow all applicable laws and policies.

The BLM relied on high-quality information and the best available data in preparation of the RSFO PRMP/FEIS. The BLM also adequately responded to public comments on the Draft RSFO RMP/EIS. Accordingly, this protest issue is denied.

NEPA: Cooperating Agencies

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: Unsuccessful Cooperating Agency Process BLM issued the Notice of Intent to begin revising the Rock Springs RMP on February 2, 2011. The Scoping report was released on January 5, 2012, after feedback was received from cooperating agencies and the public. After years of work and input from cooperators, BLM provided a briefing presentation on November 1, 2019 that clearly identified Alternative D as the preferred alternative. (Attachment D). This alternative was developed after years of input with cooperating agencies. The presentation stated that Alternative D provided a “variety of actions identified by public comments and cooperating agency input, and based on balancing ecosystem health and public use of the land.” *Id.* at 67. The presentation also stated that Alternative D provided “similar levels of protection, restoration, enhancements, and use of resources as to existing management, with focus on less prescriptive actions to allow more flexibility.” *Id.* Although BLM identified Alternative D as the preferred alternative in 2019, Alternative B, the most restrictive alternative, was unilaterally chosen by BLM over three (3) years later as the preferred alternative when the DEIS was released on August 17, 2023 without consultation with DEQ, or other cooperating agencies. DEQ did not receive any advanced notification that the preferred alternative had been changed to Alternative B, nor was DEQ provided the opportunity to provide additional input and feedback on the drastic change of the preferred alternative. While the conservation emphasis of Alternative B has been scaled back in the Proposed RMP, it still draws heavily from Alternative B, rather than the previously agreed upon Alternative D. This decision runs contrary to the cooperative intent of NEPA which aims to ensure that all affected stakeholders are consulted during the NEPA process. The fact that the most restrictive alternative was selected by BLM for the DEIS after years of input from cooperating agencies illustrates that BLM did not act in good-faith during the NEPA process. The BLM has re-engaged the cooperators since the release of the DEIS. However, little has changed in the document related to solid minerals and their needed future development, especially in the critical mineral sector. Had the BLM taken the time to properly engage and consider the comments of the cooperators prior to publication of the FEIS, these issues could have been resolved. However, due to the lack of meaningful engagement and consideration, the document remains flawed.

Summary:

Protestors claim that the BLM violated NEPA because it did not act “in good faith,” ignoring input from cooperators and stakeholders about their preferred alternative and unilaterally choosing a different and significantly more restrictive alternative.

Response:

The specific role of each cooperating agency is based on jurisdiction by law or special expertise, which is determined on an agency-by-agency basis. The BLM works with cooperating agencies to develop and adopt a memorandum of understanding that includes their respective roles, assignment of issues, schedules, and staff commitments (43 CFR 46.225(d)).

All cooperating agencies have been given opportunities to participate during various steps of the planning process, including regular briefings, requests for input on draft alternatives and the administrative Draft RSFO RMP/EIS, and identification of issues and data during scoping and during the Draft RSFO RMP/EIS public comment period. The RSFO PRMP/FEIS further describes the participation of cooperating agencies in Chapter 5, Section 5.1.1 (RSFO PRMP/FEIS p. 5-3).

The BLM adequately consulted with cooperating agencies during the entire planning process and development of all alternatives. The alternatives development process is discussed in Appendix V

(pp. V-1 through V-3) of the RSFO PRMP/FEIS. The BLM complied with NEPA and the CEQ implementing regulations at 40 CFR 1500 in the development of alternatives for the FEIS, including seeking public input and analyzing reasonable alternatives (RSFO PRMP/FEIS p. V-1). Cooperating agencies had numerous opportunities to provide input into development of the alternatives. Public input received during the scoping process was also considered to ensure that all issues and concerns would be addressed, as appropriate. Finally, and in consideration of public comments on the Draft EIS, the BLM developed its PRMP alternative, which was built off of management actions previously considered and analyzed in Alternatives A, B, C, and D as well as public and cooperating agency comments (RSFO PRMP/FEIS p. V-2).

The BLM properly involved all cooperating agencies in the development of the RSFO PRMP/FEIS.

NEPA: Cumulative Effects

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: Appendix T of the FEIS for the proposed Resource Management Plan (RMP) does not fully meet NEPA’s requirement to analyze cumulative impacts in sufficient detail. The cumulative impacts analysis presented in Appendix T relies heavily on qualitative descriptions without providing sufficient quantitative data. The reliance on general statements and assumptions, rather than on specific, measurable data, undermines the FEIS’s cumulative impact analysis. Without a detailed, quantitative analysis, BLM cannot demonstrate that it has taken the necessary “hard look” at the cumulative effects. Courts have found vague, qualitative analyses to be insufficient to satisfy NEPA’s requirements (see *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208 (9th Cir. 1998)). Appendix T’s analysis fails to adequately consider the impacts of “reasonably foreseeable future actions,” as required by NEPA (40 C.F.R. § 1508.7). Specifically, BLM has not accounted for several foreseeable projects within the region, including future oil and gas developments, renewable energy projects, and expansions of grazing activities. These foreseeable activities are likely to have significant cumulative effects on air quality, water resources, and wildlife habitat. Courts have emphasized that agencies must assess all reasonably foreseeable future actions, even if they are not specific proposals or if the projects are not finalized at the time of the analysis (see *Northern Plains Resource Council v. Surface Transportation Board*, 668 F.3d 1067 (9th Cir. 2011)). By failing to assess these foreseeable actions and their cumulative effects, the FEIS does not comply with NEPA’s mandate to consider the full range of environmental impacts.

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: NEPA and its implementing regulations require that cumulative impacts be assessed on a scale that is appropriate to the resources at issue. For instance, cumulative impacts on water resources and air quality must be analyzed on a watershed or airshed level, while impacts on migratory wildlife require consideration of regional habitat corridors. Limiting the scope of the analysis to a smaller geographic area prevents a full understanding of the cumulative impacts, violating NEPA’s directive to comprehensively assess environmental consequences (40 C.F.R. § 1508.7). The BLM has not fully considered how cumulative impacts might affect key environmental resources, particularly when those impacts are interrelated. For instance, Appendix T does not sufficiently address how cumulative impacts on water resources (due to increased development, mining, or grazing activities) could, in turn, affect wildlife populations, riparian ecosystems, or overall ecosystem health. NEPA requires agencies to consider how impacts on one resource might lead to secondary or indirect effects on another resource (see *Ocean Advocates v. U.S. Army Corps of Engineers*, 402 F.3d 846 (9th Cir. 2005)). The omission of these interrelated impacts undermines the thoroughness of the FEIS and leaves gaps in the cumulative impacts analysis.

Western Watersheds Project***Dagny Signorelli***

Issue Excerpt Text: NEPA requires a thorough analysis of the environmental impacts of grazing, including direct, indirect, and cumulative impacts. According to 40 C.F.R. § 1508.7, cumulative impacts must account for the incremental effects of grazing when combined with other land uses, such as energy development, recreation, and transportation. However, the FEIS does not adequately assess the cumulative impacts of livestock grazing, especially when considering the large-scale energy development projects planned for the RSFO. Areas with high-density mineral development would experience more significant impacts, including greater rangeland degradation and potential violations of rangeland health standards (FEIS at U-115 to U-116). This oversight violates 40 C.F.R. § 1508.27, which requires the BLM to fully analyze the context and intensity of environmental impacts.

Western Watersheds Project***Dagny Signorelli***

Issue Excerpt Text: While the FEIS addresses some site-specific impacts of renewable energy development, it lacks a thorough cumulative analysis of how renewable energy projects will affect ecosystems and the landscape. For instance, multiple projects within close proximity can create “energy sprawl,” exacerbating habitat fragmentation and compounding effects on wildlife and vegetation including species avoidance behavior (McDonald et al., 2009, Attachment 4). This gap should be addressed to ensure that the overall environmental consequences of renewable energy development are fully understood. Solar and wind projects should be subject to stricter siting criteria in sensitive environments, particularly in big game winter ranges and migration paths. Renewable Energy exclusion zones should be expanded to include all of Kinney Rim, The Haystacks, Little Mountain, and Black Rock.

Summary:

Protestors stated that the BLM violated NEPA’s cumulative impacts analysis requirement by:

- Relying on qualitative analyses in its cumulative impacts discussions (RSFO PRMP/FEIS Appendix T) rather than relying on detailed, measurable, and quantitative data and analyses.
- Failing to consider the direct, indirect, and cumulative impacts on water resources, air quality, and other key environmental resources such as livestock grazing and energy development.

Response:

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). Cumulative effects are “the effects on the environment which results from the incremental effect 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 1508.1).

The BLM has prepared a cumulative impact analysis based on the broad nature and scope of the proposed management options under consideration at the land use planning level. The cumulative impact analysis considered the effects of the planning effort when added to other past, present, and reasonably foreseeable (not highly speculative) Federal and non-Federal actions. RSFO PRMP/FEIS Appendix T provides the cumulative impacts analysis for all alternatives analyzed in the RSFO PRMP/FEIS. The RMP does not propose project-level implementation actions, but comprehensive land use planning–level management actions (see Planning Criteria in Section 1.4, pp. 1-4 through 1-5). Cumulative impacts by resource are included in RSFO PRMP/FEIS Section T.1.3, which includes

a discussion of cumulative impacts on air quality, watershed and water quality, minerals and renewable energy, livestock grazing management, and other resources and resource uses.

The analysis took into account the relationship between the proposed action and these reasonably foreseeable actions. This served as the determining factor as to the level of analysis performed and presented. The information presented in the RSFO PRMP/FEIS enables the decision-maker to make a reasoned choice among alternatives.

The BLM adequately analyzed cumulative effects in the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Livestock Grazing

Wyoming Department of Agriculture, State of Wyoming

Justin Williams

Issue Excerpt Text: The BLM is proposing to close “all other livestock enclosures within the planning area to livestock grazing, unless a site- specific analysis indicates grazing could be used to achieve enclosure goals and objectives” under the Proposed RMP (pg. 2- 74). BLM did not quantify the number of “all other enclosures.” Under 40 CFR §1502.22, the BLM must include the following to adequately analyze the alternatives: number of enclosures, the total number of acres, and the total number of AUMs closed to grazing.

Wyoming Department of Agriculture, State of Wyoming

Justin Williams

Issue Excerpt Text: The Proposed RMP Alternative for Management Action 6411 states: “The following RMP decisions remain in effect with the modification described in action 4745: Salt or mineral supplements for livestock are prohibited within 500 feet of water, wetlands, or riparian areas unless analysis shows that watershed, riparian, and wildlife objectives and values would not be adversely affected. Salt or mineral supplements are prohibited on areas inhabited by Special Status plant species or other sensitive areas (pg. 2-75).” There are two issues with Management Action 6411. First, there is no “action 4745” in Chapter 2 of the Proposed RMP. Second, while the Proposed RMP Alternative is written the same as Alternative A, the implementation and direct impacts to the livestock grazing permittees is substantially different simply due to the significant increase in acreage designated under the Special Status Plant Species ACEC (MA#7509). In the Appendix U alternative comparison, the BLM states: “The typically more resource-protective management applied to ACECs would reduce impacts on livestock by further limiting the ability to disturb forage resources compared to current management (pg. U-116).” Appendix U further states: “Impacts on livestock grazing management flexibility from restrictions on placement of salt and mineral supplements around riparian areas and aquatic resources would be the same as those presented under Alternative A, and less than under the larger and more restrictive buffers applied under Alternatives B and D. Management of range improvements would be the same as described under Alternative B; therefore, impacts associated with range improvements would be the same as those described under that alternative (pg. U-115).” However, the impacts are not the same between Alternative A and the Proposed RMP alternative because BLM ignores that the increase of acreage designated as Special Status Plant Species ACECs does impact and restrict salt and mineral supplement placement. Additionally, the term “sensitive area” under the Proposed RMP is vague because the BLM doesn’t identify what a “sensitive area” is. A broad interpretation could dramatically impact livestock permittees and where they place salt or minerals. Because BLM did not adequately define sensitive areas, it did not adequately analyze environmental effects pertaining to salt and mineral supplement placement. Furthermore, while Alternative A acreages states there are 66 sites involving about 1,200 acres for the ACEC, the Proposed RMP Management Action 7509 identifies an increase in 1,120

additional acres, or 4,469 acres in the ACEC. The difference between 4,469 acres and 1,200 acres is actually an increase in 3,269 acres. Therefore, BLM’s analysis is deficient on this issue under 40 CFR §1502.14.

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: Public lands must be managed to balance multiple uses 43 U.S.C. § 1701(a)(8), ensuring ecological health. While the FEIS allows livestock grazing on 99.9% of the Rock Spring’s Field Office’s (RSFO) approximately 3.6 million acres, it fails to adequately address the impacts of grazing on ecosystem health, wildlife habitats, and water quality. It is important to note that essentially the entire RSFO is offered for livestock leasing and grazing. See Map 3-11. This is an affront to the agency’s multiple-use mandate, particularly given that 50% or more of the total annual forage production is typically allocated to commercial livestock within each allotment. This leaves insufficient forage for wild species, in which the public (as opposed to commercial operators) have the primary interest.

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: Moreover, 43 C.F.R. § 4180.1 mandates that public lands must be managed to meet rangeland health standards, including maintaining healthy riparian zones and sustaining diverse plant and animal populations. The FEIS fails to provide a clear strategy for modifying or reducing grazing in areas that are already failing to meet these land health standards, as required by 43 C.F.R. § 4180.2(c). Given that 60% of the land (see Map 1, above) is failing these standards due to livestock grazing (FEIS at G-6, G-7), the BLM is legally obligated to take corrective actions, which are inadequately addressed in the FEIS. Additionally, the FEIS does not sufficiently outline a strategy to reduce grazing where degradation by livestock has been identified, even though FLPMA requires protection of the land for future use.

Summary:

Protestors state that the BLM violated NEPA and FLPMA by failing to adequately analyze the impacts associated with livestock grazing, failing to define what a “sensitive area” is, failing to analyze the environmental effects pertaining to salt and mineral supplement placement, and failing to quantify the number of “all other enclosures” in the PRMP. In addition, protestors claim the BLM violated FLPMA’s multiple-use mandate by allowing livestock leasing and grazing on 99.9 percent of lands within the RSFO, leaving insufficient forage for wild species and failing to ensure ecological health, along with violating FLPMA’s requirement for protection of land for future use by failing to outline a clear strategy for reducing grazing in areas that fail to meet Federal land health standards.

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), 1502.1). The BLM is required to take a “hard look” at potential environmental impacts of adopting the RSFO 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 and alternatives.

Additionally, Section 302(a) of FLPMA directs the BLM to manage public lands on the basis of multiple use and sustained yield, unless otherwise provided by law (43 USC 1732(a)). 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.

FLPMA’s multiple-use policy does not require that all uses be allowed on all areas of the public lands. Rather, the BLM has wide latitude to allocate the public lands to particular uses, 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 and undue degradation. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses that involves tradeoffs between competing uses.

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. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Chapter 4 and Appendix U of the RSFO PRMP/FEIS address the potential environmental impacts from implementing each of the alternatives, including the impact of livestock grazing under the PRMP, on each of the resources and resource use categories analyzed (RSFO PRMP/FEIS, pp. 4-1 through 4-154 and Appendix U). Section 4.16 (RSFO PRMP/FEIS pp. 4-109 through 110 and Appendix U pp. U-110 through U-116) specifically analyzes the potential impacts on livestock grazing that could occur from surface-disturbing and development activities (e.g., mineral development, ROW development) that may remove or degrade forage resources. Potential impacts on water resources and vegetation communities from livestock grazing are discussed in Section 4.5, *Water Resources* (RSFO PRMP/FEIS pp. 4-19 through 4-25 and Appendix U pp. U-18 through U-27), and Section 4.6, *Vegetative Communities* (RSFO PRMP/FEIS pp. 4-25 through 4-33 and Appendix U pp. U-27 through U-34). These sections state that impacts on vegetation resulting from livestock grazing management on BLM-administered lands include the removal of forage by livestock, which could alter the amount, condition, composition, and vigor of vegetation in grazed areas. However, implementation of the Wyoming Land Health Standards as the minimum acceptable conditions for public rangelands would support the health and diversity of vegetation communities. As described in Appendix U, Section 4.6 (RSFO PRMP/FEIS pp. U-27 through U-34), the impacts on vegetative communities from livestock grazing would be reduced under Alternative B compared to Alternative A due to the increased restrictions placed on livestock grazing under Alternative B; greater under Alternative C compared to Alternative A due to less-restrictive measures for range improvements, water developments, and salt and mineral placement; and the same as Alternative A under Alternative D and the PRMP.

In addition, the RSFO PRMP/FEIS refers to “sensitive areas” as relevant throughout the document, including in Section 2.4, as areas inhabited by Special Status plant species (RSFO PRMP/FEIS p. 2-75) and in Section 4.4 as areas within 100 feet of drainage or standing and flowing waters (RSFO PRMP/FEIS p. 4-15). Lastly, Management Action 6411 proposes four alternatives regarding how salt and mineral supplements may be utilized within the Resource Area (RSFO PRMP/FEIS p. 2-75). Restricting use or placement of salt and mineral supplements within 500 feet of certain resource areas will prevent impacts on water quality (RSFO PRMP/FEIS p. 4-7) and the physical and visual integrity of paleontological sites (RSFO PRMP/FEIS p. 4-91).

Regarding FLPMA’s multiple-use policy, all alternatives considered in the RSFO PRMP/FEIS, as described in Section 2.2.5, provide an appropriate balance of uses on the public lands (pp. 2-2 through 2-134). All alternatives allow some of level of all uses present in the planning area, in a manner that is consistent with applicable statutes, regulations, and BLM policy, documenting the BLM’s compliance with the principles of multiple use.

The BLM complied with NEPA’s requirement to analyze the environmental consequences/impacts from livestock grazing in the RSFO PRMP/FEIS. The RSFO PRMP/FEIS also satisfies FLPMA’s multiple-use policy. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Cultural Resources and Environmental Justice

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: While the FEIS acknowledges the potential for livestock grazing activities to disturb cultural and historical resources through actions such as fencing or water development (FEIS at 4-90), the document falls short in offering detailed analysis or specific mitigation strategies. Additionally, while protections for Indian Sacred Sites are referred to through Executive Order 13007, the plan provides limited discussion on how grazing might impact these culturally significant areas (FEIS at E-10), leaving a gap in the environmental justice analysis required under NEPA.

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: Furthermore, under Executive Order 12898, federal agencies must consider the environmental justice impacts of their actions. 43 C.F.R. § 46.115 requires the BLM to assess past actions when analyzing cumulative effects. The BLM must determine whether its actions disproportionately affect low-income or minority communities, including Indigenous peoples who rely on the RSFO lands for cultural and subsistence purposes. The FEIS fails to adequately assess the environmental justice implications of continued livestock grazing, which degrade lands that are culturally significant to Indigenous groups.

Summary:

Protestors claimed that the BLM violated NEPA’s cultural resources and environmental justice analysis requirement by failing to discuss or provide mitigation strategies for the degradation/impacts of continued livestock grazing on culturally significant Indigenous lands.

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), 1502.1). The BLM is required to take a “hard look” at potential environmental impacts of adopting the RSFO 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 and alternatives.

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. 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 BLM provided a full analysis of the potential direct, indirect, and cumulative impacts of each management alternative on cultural resources in RSFO PRMP/FEIS Section 4.12 (pp. 4-85 through 4-90), Appendix U, Section 4.12 (pp. U-84 through U-94), and Appendix T (pp. T-22 through T-23) including impacts on cultural resources from livestock grazing. Similarly, the BLM provided a full analysis of the potential impacts of each management alternative on environmental justice in RSFO PRMP/FEIS Appendix U, Section 4.22.7 (pp. U-179 through U-181). As described in Chapter 4, potential impacts from livestock grazing on cultural resources and culturally significant Indigenous livestock trampling, which could cause soil compaction or erosion, and livestock could cause damage to existing resources through direct contact. Restricting the use of salt and mineral supplements to herds could help protect both the physical and visual integrity of these resources by reducing unnatural congregations of both domestic and wild animals that could result in excessive occupancy, trampling, soil compaction, or accelerated erosion (RSFO PRMP/FEIS p. 4-89). Best management practices for important cultural resources that the BLM could use as stipulations or COAs attached to authorizations are described in Appendix A, Section A.2.1, and include the use of electric fencing with low-visibility fiberglass posts and environmental colors for livestock control (RSFO PRMP/FEIS Appendix A, p. A-7).

The BLM complied with NEPA’s requirement to analyze the environmental consequences/impacts on cultural resources and environmental justice in the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Oil and Gas

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: In 2013, The Approved Land Use Plan Amendments for Allocation of Oil Shale and Tar Sands Resources on Lands Administered by the Bureau of Land Management in Colorado, Utah, and Wyoming (“OSTS amendment”) authorized oil shale leasing and development on 678,000 acres across the three states including the Green River RMP and Jack Morrow Hills CAP which are encompassed by the Rock Springs RMP revision. See OSTs amendment ROD at 3. The Rock Springs RMP as proposed would authorize 2.6 million acres to be open to oil shale leasing and development in the Rock Springs Field Office alone. FEIS at ES-6. It is our understanding that the Rock Springs RMP supersedes the 2013 OSTs amendment ROD, and therefore this represents a radical expansion in lands open to oil shale development. Oil shale is arguably the dirtiest and most climate-impacting form of fossil fuel development, and it is appalling that the Bureau of Land Management would so radically expand this land use in the absence of a credible direct and cumulative impacts analysis. The agency’s impact analysis makes no sense, and therefore fails to constitute the legally required “hard look” at impacts of oil shale leasing and development. The agency states that both the No Action Alternative and Proposed RMP would “reduce coal mining and oil shale operations and likely reduce coal and oil shale production within the planning area.” FEIS at 4-83. How is this possible for oil shale? At present, under the OSTs amendment (adopting Alternative 2(b), OSTs amendment ROD at 3), only 292,000 acres in all of Wyoming would be open

to oil shale leasing and development. OSTTS amendment ROD at 9. Under Alternative A (which is supposed to represent current conditions), 3.23 million acres is open to oil shale leasing and development. FEIS at ES-6. The Rock Springs RMP proposed plan appears to open 2.6 million acres to oil shale leasing and development, a radical increase, yet the impacts analysis only states that oil shale development and production would be “reduce[d]” under the No Action Alternative, and further reduced under the proposed plan. FEIS at 4-83.

Summary:

Protestors stated that the BLM failed to take a “hard look” at the impacts of oil shale leasing and development as proposed in the PRMP. Specifically, protestors stated that the BLM claims that both the No Action Alternative and PRMP would “reduce coal mining and oil shale operations and likely reduce coal and oil shale production within the planning area,” yet does not provide any rationale for this conclusion given that additional acreage will be available to oil shale leasing under the PRMP.

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), 1502.1). The BLM is required to take a “hard look” at potential environmental impacts of adopting the RSFO 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 and alternatives.

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 implementation decisions or actions (e.g., the BLM is not approving an Application for Permit to Drill to start drilling), the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Management actions under each alternative for oil shale are identified in the RSFO PRMP/FEIS in Management Actions 2412 through 2419 (RSFO PRMP/FEIS pp. 2-24 through 2-26). Chapter 3, Section 3.15.5, *Oil Shale*, discusses the current conditions for oil shale (RSFO PRMP/FEIS p. 3-20). RSFO PRMP/FEIS Section 4.11 (pp. 4-79 through 4-85) and Appendix U, Section 4.11 (pp. U-80 through U-84) analyze potential impacts of the alternatives on minerals development. The impact on oil shale leasing and development under the PRMP would be similar to that of Alternative A, except that the areas closed to oil shale leasing would increase to 1,115,490 acres or around 53 percent, which would increase impacts on oil shale development and could result in decreased production of oil from shale resources (RSFO PRMP/FEIS Appendix U, p. 83). Conversely, the PRMP includes substantially fewer acres of oil shale closures than Alternative B, and adverse effects on development of this resource would be less than under that alternative (RSFO PRMP/FEIS p. U-83). Table 2-7 in Appendix V further compares all alternatives for oil and shale leasing and develop (RSFO PRMP/FEIS pp. V-17 through V-19).

The BLM complied with NEPA’s requirement to analyze the environmental consequences and impacts on oil shale from a full range of alternatives in the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Socioeconomics

Sublette County, Wyoming

Jeness Saxton

Issue Excerpt Text: Socioeconomics The BLM’s response to the County’s concerns regarding the socioeconomic impacts of the RMP is inadequate. Rather than tackling the crucial issues that are not addressed in the technical socioeconomic report in Appendix N, the BLM in its responses to comments simply refers to Glossary definitions or relatively unaltered sections of the FEIS, without directly responding to the core issues that were raised. The failure to address our concerns is exacerbated by the insufficient and inadequate economic analysis for the new proposed RMP. This inadequacy is evident in the technical socioeconomic report, where numerous tables indicate that the economic impacts of the proposed RMP fall somewhere between Alternative B and Alternative D. A glaring example is Table N-25, which shows that the difference in Total Annual Impacts on Oil and Gas production between the proposed RMP and Alternative A (the no-action alternative) could range from -73.5% to -1%. Such a wide margin of uncertainty is neither appropriate nor acceptable. The BLM should thoroughly assess how such a potentially significant reduction would affect local communities, rather than falling short in comprehensively evaluating the far-reaching consequences of this decision. A more rigorous assessment is needed to fully understand the impacts on employment, tax revenues, public services, and community well-being. The repercussions for Sublette County are particularly significant, as the decision could severely affect funding for critical services like education, public safety, and infrastructure. However, the BLM’s current analysis minimizes these concerns in its use of ambiguous language about “possible” negative community effects. This lack of a detailed examination of the certainty and extent of these impacts, along with their cascading effects on local economies, represents a critical gap in the analysis. To address this shortcoming, a more comprehensive and in-depth evaluation is imperative. Also, the proposed RMP’s analysis of reductions in labor earnings and job losses (Appendix N, Table N-9 and Table N-11 respectively) lacks the depth necessary to fully capture the socioeconomic impacts of the proposed restrictions. Moreover, the BLM has not adequately considered the implications of overlapping restrictions, such as the closure of rights-of-way (ROW). Table 2-10 indicates the acres excluded from ROW access will increase from 426,709 to 921,059 (216%) between Alternative A and the proposed RMP. The proposed restrictions will have far-reaching consequences beyond just hindering federal mineral extraction. They will also constrain future recreational opportunities and limit access to state and private lands. Given Wyoming’s unique pattern of land ownership, ROW access is crucial for economic development. The BLM oversight of not fully considering the wider economic ramifications of these access closures constitutes a major flaw in their analysis. This omission fails to capture the true extent of the potential economic impact on the region. The County continues to assert that a Supplemental Environmental Impact Statement (SEIS) is necessary to provide a more comprehensive analysis of the socioeconomic impacts of the proposed RMP. Without a thorough assessment of the long-term consequences of these restrictions, including the loss of revenue, employment, and public services, the BLM risks implementing a plan that will significantly harm Wyoming’s communities and the people who rely on the responsible development of public lands.

Campbell, Converse, Crook, Niobrara, and Weston Counties

Fred Devish

Issue Excerpt Text: The BLM’s response to the Counties concerns regarding the socioeconomic impacts of the RMP is inadequate. The Counties identified substantial deficiencies in the

socioeconomic analysis presented in the DEIS particularly regarding the economic consequences of increasing and overlapping restrictions on mineral and energy development. However, instead of addressing these critical concerns that are not addressed in the technical socioeconomic report in Appendix N, the BLM in its responses simply refer to Glossary definitions or relatively unaltered sections of the FEIS, without directly responding to the core issues we raised. Furthermore, it is evident the BLM did not perform a thorough economic analysis for the new Proposed RMP which can be seen in the numerous tables within the technical socioeconomic report that show economic impacts of the proposed RMP are somewhere between Alternative B and Alternative D. For example, Table N-25 states the difference in Total Annual Impacts of the proposed RMP with the Alternative A (the no action alternative) on Oil and Gas production will range between 1-73.5%, this level of uncertainty is not appropriate or acceptable. The BLM should not only better understand if the difference in total economic output will be between \$827 million or \$1.8 billion per year (Table N-25) but also how this large of a reduction will affect local communities not only in southwest Wyoming but the impacts related to all counties that will be impacted by reduced mineral revenue that is redistributed across the State. This information will have profound consequences for Wyoming counties, particularly in terms of funding for essential services such as education, public safety, and infrastructure. Despite this, the BLM's analysis downplays these impacts, offering only vague statements about "possible" negative community effects. In Table 4-33, the BLM attempts to simplify the impacts of the RMP in socioeconomic analysis by saying "Social impacts from stresses on the local economy, public services, and social systems would be similar to those of Alternative A, but may be somewhat less in some areas", the Counties find this statement unvetted and unlikely given the potential loss of \$17.3 billion in total economic output between 2016 and 2031 (Table 4-33). The BLM's failure to fully assess the certainty of these impacts and their ripple effects on local economies is a major oversight that must be addressed through a more thorough evaluation.

Campbell, Converse, Crook, Niobrara, and Weston Counties
Fred Devish

Issue Excerpt Text: In addition, the proposed RMP's analysis of reductions in labor earnings and job losses (Appendix N, Table N-9 and Table N-11 respectively) lacks the depth necessary to fully capture the socioeconomic impacts of the proposed restrictions. Low estimates suggest the RMP could lead to a \$211 million per year reduction in labor earnings when compared to Alternative A, which would lead to widespread job losses, not only in the energy sector but also in local businesses that rely on oil and gas activity for their livelihoods. The BLM's general acknowledgment that these impacts "could" occur or by suggesting Alternative A could have negative social impacts is insufficient. Moreover, the BLM has not adequately considered the implications of overlapping restrictions, such as the closure of rights-of-way (ROW) for mineral development or for expanded transmission capability. Table 2-10 indicates the acres excluded from ROW access will increase from 426,709 to 921,059 (216%) between Alternative A and the proposed RMP. These restrictions will not only hinder federal mineral extraction but will also limit future recreation and access to state and private lands. The interconnected nature of land ownership in Wyoming makes ROW access critical for economic development, and the BLM's failure to account for the broader economic implications of these closures represents a significant gap in the analysis.

Campbell, Converse, Crook, Niobrara, and Weston Counties
Fred Devish

Issue Excerpt Text: By significantly eliminating or reducing mineral leasing and development, access to federal lands and restricting ROW or transmission availability, BLM has significantly curtailed the funding stream of programs, which will create a significant environmental impact not only in Wyoming but across the country. BLM failed to assess and describe the environmental impacts on state and national programs going forward by the loss of mineral production and the associated fee collections. Further, the federal agency did not sufficiently analyze for the effects that funding and revenue decreases would have on local services, programs and communities. BLM failed

to adequately include an in-depth analysis on where those funding streams will be recovered if mineral leasing and development is eliminated long-term. The Counties continue to assert that a Supplemental Environmental Impact Statement (SEIS) is necessary to provide a more comprehensive analysis of the socioeconomic impacts of the proposed RMP. Without a thorough assessment of the long-term consequences of these restrictions, including the loss of revenue, employment, and public services, the BLM risks implementing a plan that will significantly harm Wyoming’s communities and the people who rely on the responsible development of public lands. It is incumbent on BLM to address these issues in detail in Record of Decision.

Campbell, Converse, Crook, Niobrara, and Weston Counties

Fred Devish

Issue Excerpt Text: The Counties are particularly concerned about the cumulative economic impacts of these overlapping ACEC designations, which will severely limit the availability of public lands for responsible use and development. As discussed in the previous section, the BLM’s socioeconomic analysis fails to adequately consider the ripple effects these designations will have on industries such as grazing, mineral extraction, energy development, and recreation. Without a more comprehensive analysis of how these ACECs will impact Wyoming’s communities and economies, the BLM’s proposed designations lack the necessary foundation for responsible land management, including multiple use and sustained yield objectives.

Campbell, Converse, Crook, Niobrara, and Weston Counties

Fred Devish

Issue Excerpt Text: The RMP has the potential to significantly affect the economies, land use practices, and governance structures of counties throughout the planning area. Additionally, impacts to planning area counties, especially negative financial impacts, have serious potential to increase burdens on other member counties when redistributing tax revenues. The northeastern Counties have expressed earlier that our primary concerns center around inconsistencies between the Proposed RMP and the five southwestern affected counties land use plans which went wholly unaddressed, the outdated and insufficient analysis of socioeconomic impacts, and the expansive designation of Areas of Critical Environmental Concern (ACECs) without complying with the Federal Land Policy and Management Act (FLPMA). BLM must better align with local county natural resource management plans. The Proposed Alternative D does not meet the mandate of multiple use and sustained yield as provided in FLPMA and it appears to solely support the management of conservation or preservation of lands in the RMP area through special designations including a historic level of Areas of Critical Environmental Concern (ACECs), limited or no leasing of minerals and land use allocations, restrictions for access to federal lands, along with other restrictive management prescriptions. This is unacceptable and the Counties clearly cannot support such a document that has negative impacts on our local communities and the State.

National Mining Association

Katie Sweeney

Issue Excerpt Text: Failure to Adequately Analyze Impacts to Electricity and Affordability (Chapter 3, section 3.15, Chapter 4, section 4.11, 4.20) The NMA’s Jan. 2024 comments specifically raised concerns about the impacts of curtailing federal coal production on reliable and affordable electricity. We noted that much of the nation’s coal production comes from federal leases in Western states including Wyoming. If this affordable coal is not available, high costs for alternative fuels will result in higher electricity costs and lower reliability. The NMA also commented that electricity demand is expected to grow with increased electrification, particularly as our economy and population expand.¹¹ As a result, coal will continue to be called upon to meet the nation’s power needs even assuming ambitious growth scenarios are met for electricity generation from renewables and natural gas energy sources. Similar concerns were echoed by other stakeholders, Senators John Barrasso and Cynthia Lummis and Congresswoman Harriet Hageman.¹² Despite these concerns, the agency

ignored new data on the continued need for coal to meet growing electricity demand. Nowhere in the proposed RMP does the BLM fully explain the rationale behind its severe restrictions on coal mining activities. Coal resources from federal leases are vital to supplying electricity at a reasonable price and in an environmentally sound manner to American consumers. The BLM made no mention of this important realization, despite an abundance of resources available, including information from the Federal Energy Regulatory Commission (FERC), the North American Electric Reliability Corporation (NERC), regional grid operators, and the utility industry, which was available during the same time frame as other data BLM chose to include. i. BLM’s Inadequate Impacts Evaluation Violates the National Environmental Policy Act BLM’s failure to analyze the reliability impacts of the RSFO RMP and EIS violates the requirement of the National Environmental Policy Act (NEPA) to evaluate both direct and indirect foreseeable impacts. Uncertainty inherent in predicting the future - as BLM maintains in arguing that it does not have the tools to analyze reliability impacts - cannot serve as an excuse for agencies to completely avoid this obligation. While courts have agreed that the indirect impact analysis is bounded by what is reasonably foreseeable,¹³ they have similarly cautioned against agencies attempting to “travel the easy path and hastily label the impact of the [action] as too speculative and not worthy of agency review.”¹⁴ While agencies are [N]ot required ... to do the impractical, if not enough information is available to permit meaningful consideration, because the basic thrust of an agency’s responsibilities under NEPA is to predict the environmental effects of proposed action before the action is taken and those effects fully known ... [r]easonable forecasting and speculation is ... implicit in NEPA.¹⁵ As a recent Montana District court decision cautioned BLM in mandating preparation of a supplemental EIS (SEIS), “an EIS that does not adequately consider the indirect effects of a proposed action violates NEPA.”¹⁶ BLM’s analysis here is particularly egregious given the comments on the draft RMP and EIS regarding the need for domestic coal production for efficient and reliable baseload power to support the economic and social needs, domestic security, and quality of life in the United States.

National Mining Association

Katie Sweeney

Issue Excerpt Text: BLM’s Inadequate Impacts Evaluation Violates the Administrative Procedures Act Similarly, BLM’s refusal to evaluate the impacts to reliability and affordable electricity is arbitrary and capricious under the Administrative Procedure Act (APA). One consideration in determining the lawfulness of agency actions, is whether an agency “failed to consider an important aspect of the problem.”³⁷ In attempting to focus its impacts analysis solely on impacts within the RSFO planning area, BLM failed to consider an important aspect of the problem and also arbitrarily limited its analysis. As discussed above, the impacts of BLM’s adoption of the preferred alternative on reliable and affordable electricity is an important aspect the agency was required to analyze.

Summary:

Protestors state that the BLM violated NEPA and the Administrative Procedures Act by:

- Failing to conduct a proper, in-depth analysis regarding socioeconomics. Protestors claim that the BLM failed to adequately analyze socioeconomic impacts of the PRMP related to restrictions on mineral and energy development and only indicates that economic impacts of the PRMP are somewhere between Alternative B and Alternative D. Protestors also claim that the ripple effect/impact was not adequately considered, as the BLM failed to adequately analyze the impacts from reduced Federal mineral extraction and limitations on future recreation and access to State and private lands, failing to adequately analyze the impacts on local services and State and national programs from the loss of mineral production, along with local industries like industries such as grazing, mineral extraction, energy development, and recreation.
- Failing to evaluate both direct and indirect impacts of the proposed action on coal production and consider “reasonable forecasting speculation” when analyzing the indirect impacts of limited coal

availability.

- Failing to provide an adequate analysis of the impacts on reliable and affordable electricity.

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), 1502.1). The BLM is required to take a “hard look” at potential environmental impacts of adopting the RSFO 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 and alternatives.

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 Application for Permit to Drill to start drilling), the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Proposed management for mineral resources under each alternative including locatable minerals, leasable minerals (geothermal, oil and gas, geophysical exploration, and others), and salable minerals is provided in Management Actions 2000 through 2057 (RSFO PRMP/FEIS pp. 2-14 through 2-27). Impacts on energy and minerals were analyzed qualitatively given the speculative nature of the demand and availability of alternative sources in RSFO PRMP/FEIS Section 4.11 (pp. 4-79 through 4-85) and Appendix U, Section 4.11 (pp. U-80 through U-84). RSFO PRMP/FEIS Appendix V, Table 2-3, Table 2-4, Table 2-5, Table 2-6, Table 2-7, and Table 2-8 provide acreages and areas with restrictions for mineral development (pp. V-3 through V-24). Maps identifying these areas are included as Maps 2-1 through 2-20 (RSFO PRMP/FEIS Volume 1, PDF pp. 378 through 397). Proposed projects on any area open for mineral development would require site-specific plans and additional NEPA analysis. The complexity of global energy markets and the analysis for local energy needs within Wyoming or the U.S. are outside the scope of the RMP. Furthermore, electricity generated from coal has been declining since the late 2000s as natural gas and renewable energy costs have decreased. Free-market economics drive the demand for coal. Federal policies and coal management are a factor, but they are not a driver of Wyoming’s predicted future coal demands, and these impacts are outside the scope of this land use planning process, which is why they are not discussed in detail throughout the RSFO PRMP/FEIS.

RSFO PRMP/FEIS Section 4.22 (pp. 4-139 through 4-154) and Appendix U, Section 4.22 (pp. U-151 through U-181) disclose a breakdown of the predicted economic impacts from management actions under each alternative including minerals management actions. These impact discussions include the potential indirect ripple effect on the community and public services, impacts on public revenue, and impacts on those not directly employed in oil and gas and mining. RSFO PRMP/FEIS Appendix N provides the methodology for the economic impact analysis, which also includes indirect impacts. The socioeconomic analysis is not a goal or intended outcome, but rather a baseline measurement tool

for analysis comparison among the alternatives that have differing management restrictions. Additionally, even if conditions have changed in the intervening years, the baseline data are adequate to compare conditions and differentiate resource impacts among the alternatives.

The RSFO PRMP/FEIS also provides an analysis of potential impacts from mineral resources management under all alternatives on all sections in Chapter 4 including livestock grazing in Section 4.16 (pp. 4-105 through 4-110) and Appendix U, Section 4.16 (pp. U-110 through U-116); and recreation in Section 4.17 (pp. 4-110 through 4-119) and Appendix U, Section 4.17 (pp. U-116 through U-128). Under the PRMP, more acres would be closed to mineral leasing compared to Alternative A but less than described under Alternative B. Regarding grazing, minimizing surface-disturbing activities from minerals development would reduce impacts on forage (p. U-115). Regarding recreation, minimizing surface-disturbing activities from minerals development would limit impacts from mineral development and improve preservation of quiet and solitude and opportunities for hunting or viewing wildlife (p. U-125).

The BLM complied with NEPA's requirement to analyze the socioeconomic and other resource impacts in the RSFO PRMP/FEIS from proposed mineral leasing restrictions, and the impacts on reliable and affordable electricity in the RSFO PRMP/FEIS are outside the scope of the RMP. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Special Status Species

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The BLM failed to analyze the current management of Greater Sage Grouse and the cumulative impacts of this management in addition to the Proposed RMPA in violation of NEPA. See RMPA and FEIS at ES-2, ES-7, 1-3, 3-10.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: BLM Violates NEPA by Excluding Discussion and Analysis of Management Actions Impacting Greater Sage Grouse and Its Habitat NEPA requires that an environmental analysis discusses the “reasonably foreseeable environmental effects of a proposed agency action,” including those that cannot be avoided. 42 U.S.C. § 4332(C)(i) -(ii); 40 C.F.R. § 1502.16(a)(1). Agencies are also required to describe the environment of the areas to be affected and identify “reasonably foreseeable environmental trends and planned actions.” 40 C.F.R. § 1502.15(a). NEPA may not mandate a particular result, but it does prescribe a necessary process. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (NEPA “prohibits uninformed rather than unwise agency action.”). The process is based on NEPA’s often cited “twin aims” - (1) federal agencies must “consider every significant aspect of the environmental impact of a proposed action”; and (2) “inform the public that it has indeed considered environmental concerns in its decisionmaking process.” *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 97 (1983) (quotes and citations omitted). *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 703 (10th Cir. 2009) (“By focusing both agency and public attention on the environmental effects of proposed actions, NEPA facilitates informed decisionmaking by agencies and allows the political process to check those decisions.”) The BLM throughout the Proposed RMPA and FEIS states that “Greater Sage-Grouse management, including all actions related to management of [PHMA] and General Habitat Management Areas, are being addressed under separate ongoing Amendments(s) and are not included as planning issues for this document.” See RMPA and FEIS at ES-3. Even the 2015 RMPA, which is currently in effect, is described as “outside the scope of this planning effort, will not be amended, and are not analyzed.” *Id.* at 1-3 (emphasis added). The acres impacted by the 2015

RMPA’s restrictions on mineral development and/or rights-of-way are not considered in impacted acreage determinations or even identified on any of the Maps. See *id.* at ES-7 (For the Proposed RMPA: “Acres do not include Greater Sage Grouse management.”), W-54 (In response to comment #14027-10, the BLM states that the previous Greater Sage Grouse RMPA “are in effect today as part of the No Action alternative (Alt. A) of this document). There is not even a single map of Greater Sage-Grouse habitat included with the FEIS. Even more concerning is that Chapter 3 of the FEIS only states that “Greater Sage-Grouse are found throughout the planning area wherever suitable habitat exists.” *Id.* at 3-10. What the FEIS should have disclosed is that over 46 percent of the Rock Springs Field Office contains PHMA, in addition to providing a map of PHMA, General Habitat Management Areas, and all leks. Then the BLM should have brought attention to the fact that PHMAs are currently subject to controlled surface use restrictions, are right-of-way avoidance, requires no surface occupancy restrictions within four miles of a lek within a PHMA, and other various seasonal restrictions. While the BLM is currently finalizing the Greater Sage Grouse RMPA and FEIS, this planning effort can and must consider the current management actions for Greater Sage-Grouse protection as part of its impact analysis of all alternatives. The BLM is ignoring an important aspect of land management restrictions that severely impact the entire Rock Springs Field Office. It also prevents the BLM from providing a complete environmental impact analysis for each alternative when one major source of land restriction is completely ignored. The management actions also would have certainly helped in the analysis of considering whether ACEC designation was necessary to protect Greater Sage Grouse habitat. The BLM must reevaluate and analyze the cumulative impact of this Proposed RMPA and the Greater Sage Grouse management actions, even if amendments to these management actions are not complete. The fact remains that the 2015 RMPA for Greater Sage Grouse are in effect and currently restrict multiple use.

Corey Roberts

Issue Excerpt Text: BLM Violates NEPA by Excluding Discussion and Analysis of Management Actions Impacting Greater Sage Grouse and Its Habitat NEPA requires that an environmental analysis discusses the “reasonably foreseeable environmental effects of a proposed agency action,” including those that cannot be avoided. 42 U.S.C. § 4332(C)(i) -(ii); 40 C.F.R. § 1502.16(a)(1). Agencies are also required to describe the environment of the areas to be affected and identify “reasonably foreseeable environmental trends and planned actions.” 40 C.F.R. § 1502.15(a). NEPA may not mandate a particular result, but it does prescribe a necessary process. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (NEPA “prohibits uninformed rather than unwise agency action.”). The process is based on NEPA’s often cited “twin aims” - (1) federal agencies must “consider every significant aspect of the environmental impact of a proposed action”; and (2) “inform the public that it has indeed considered environmental concerns in its decision-making process.” *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 97 (1983) (quotes and citations omitted). *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 703 (10th Cir. 2009) (“By focusing both agency and public attention on the environmental effects of proposed actions, NEPA facilitates informed decision-making by agencies and allows the political process to check those decisions.”) The BLM throughout the Proposed RMPA and FEIS states that “Greater Sage-Grouse management, including all actions related to management of [PHMA] and General Habitat Management Areas, are being addressed under separate ongoing Amendments(s) and are not included as planning issues for this document.” See RMPA and FEIS at ES-2. Even the 2015 RMPA, which is currently in effect, are described as “outside the scope of this planning effort, will not be amended, and are not analyzed.” at 1-3 (emphasis added). Even the acres impacted by the 2015 RMPA’s restrictions on mineral development and/or rights-of-way are not considered in acreage determinations or even identified on any of the Maps. See at ES-7 (For the Proposed RMPA: “Acres do not include Greater Sage Grouse management.”), W-54 (In response to comments, the BLM states that the previous Greater Sage Grouse RMPA “are in effect today as part of the No Action alternative (Alt. A) of this document). There is not even a single map of Greater Sage-Grouse habitat included

with the FEIS. Even more concerning is that Chapter 3 of the FEIS only states that “Greater Sage-Grouse are found throughout the planning area wherever suitable habitat exists.” at 3-10. What the FEIS should have disclosed is that over 46 percent of the Rock Springs Field Office contains PHMA, in addition to providing a map of PHMA, General Habitat Management Areas, and all leks. Then the BLM should have brought attention to the fact that PHMAs are currently subject to controlled surface use restrictions, are right-of-way avoidance, requires no surface occupancy restrictions within four miles of a lek within a PHMA, and other various season restrictions. While the BLM is currently finalizing the Greater Sage Grouse RMPA and FEIS, this planning effort can and must consider the current management actions for Greater Sage-Grouse protection as part of its analysis of all alternatives. The BLM is ignoring an important aspect of land management restrictions that severely impact the entire Rock Springs Field Office. It also prevents the BLM from providing a complete environmental impact analysis for each alternative when one major source of land restriction is completely ignored. The management actions also would have certainly helped in the analysis of considering whether ACEC designation was necessary to protect Greater Sage Grouse habitat. The BLM must reevaluate and analyze the cumulative impact of this Proposed RMPA and the Greater Sage Grouse managements, even if amendments to these management actions are not complete. The fact remains that the 2015 RMPA for Greater Sage Grouse are in effect and currently restrict multiple use.

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: The Endangered Species Act (ESA) requires that federal actions do not jeopardize the existence of endangered or threatened species, and FLPMA requires the BLM to protect wildlife habitat on public lands. Under 43 C.F.R. § 4180.1(d), the BLM must ensure that wildlife habitats are maintained or restored to conditions that support species diversity and ecological balance. The FEIS states that riparian zones-important habitats for wildlife species-are being degraded by grazing, yet it provides insufficient plans to mitigate these effects (FEIS at G-6, G-7). Moreover, the FEIS does not provide detailed site-specific data on how livestock grazing will be managed to protect habitats for species such as the Greater Sage-Grouse and other sensitive species in the region. This lack of thorough analysis and mitigation strategies violates both NEPA and FLPMA’s requirements for maintaining wildlife habitats.

Summary:

Protestors stated that the BLM violated NEPA and FLPMA’s requirements for maintaining wildlife habitats by excluding discussion and analysis of management actions and cumulative impacts on Greater Sage-Grouse and its habitat in the PRMP/FEIS, thus failing to provide a complete environmental impact analysis that includes a plan to mitigate the effects of grazing degradation or provides site-specific data on how grazing will be managed to protect the habitats of sensitive species.

Response:

The effects analysis must demonstrate that the BLM took a “hard look” at the impacts of the action (BLM NEPA Handbook, H-1790-1, 6.8.1.2, *Analyzing Effects*). The environmental information made available to public officials and citizens before decisions are made must be of “high quality” (40 CFR 1500.1(b)). A “hard look” is a reasoned analysis containing quantitative or detailed qualitative information (BLM NEPA Handbook, H-1790-1, 6.8.1.2, *Analyzing Effects*). The BLM must use information of high quality and scientific integrity in its NEPA analysis, including information provided as part of public involvement (40 CFR 1500.1(b)). The NEPA documents are to be analytic, rather than encyclopedic (40 CFR 1500.4(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 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 land use planning decisions under consideration by the BLM are programmatic in nature, 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 planning-level 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.

RSFO PRMP/FEIS Section 1.3 states, “Greater Sage-Grouse management, including all actions related to management of Priority Habitat Management Areas and General Habitat Management Areas, are being addressed under separate ongoing Amendments(s) and are not included as planning issues for this document” (p. 1-3). The ongoing Greater Sage-Grouse RMP Amendment will amend the RMP for the RSFO and is a separate planning effort. The previous Greater Sage-Grouse Amendments in 2015 and 2019 amended the 1997 Green River RMP and are in effect today as part of the No Action Alternative of the RSFO PRMP/FEIS. All management actions are currently implemented through the 2015 and 2019 amendments and are therefore out of the scope of the RSFO PRMP/FEIS. Section 2.1 states that the BLM will implement management decisions for Greater Sage-Grouse following the ongoing planning amendment processes and resolution of ongoing relevant litigation.

The RSFO PRMP/FEIS does not include management decisions regarding Greater Sage-Grouse due to active amendment planning of the 1997 Green River RMP and unknown outcome of the current Greater Sage-Grouse RMP Amendment processes. Because management decisions regarding Greater Sage-Grouse are not included in the RSFO PRMP/FEIS, the BLM complied with NEPA’s requirement to analyze the environmental consequences/impacts with reasonably foreseeable significant effects of the proposed action and alternatives. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Vegetation

Wyoming Department of Agriculture, State of Wyoming

Justin Williams

Issue Excerpt Text: The Proposed RMP and FEIS analysis fail to analyze the significant effects between the range of alternatives and the impacts to vegetation, including the native plant communities and special status plants by excluding grazing; the impacts of the closure to grazing permittees; and the cumulative effects of implementing the increased enclosure footprint, such as livestock, wildlife, or recreational hiking and ORV trailing next to or around the enclosure, etc. The BLM’s analysis should have incorporated historic quantitative vegetative monitoring data and more recent sensitive plant species survey data to conclude the need for the increased enclosure acreage. Without this data, WDA and the public cannot determine whether BLM adequately analyzed reasonably foreseeable effects, in this case, what if any benefit the enclosure provides to special status plants and the negative effects to availability of forage for livestock grazing. The BLM uses “pure conjecture” when selecting the Proposed RMP Alternative, with no credible scientific evidence to prove the increased enclosures are needed and in fact do not analyze the catastrophic consequences by excluding livestock, such as increasing fine fuels, which will increase the likelihood of wildfire that could potentially decimate special status plants. Again, BLM failed to comply with 40 CFR §1502.22.

Summary:

Protestors claim that the BLM failed to comply with NEPA, 40 CFR 1502.22 because the PRMP/FEIS analysis failed to analyze the significant effects of the range of alternatives' impacts on vegetation, and that the BLM failed to use credible scientific evidence when selecting an alternative that would increase exclosures and close areas to livestock grazing.

Response:

When preparing an EIS, NEPA requires an agency to rigorously explore and objectively evaluate all reasonable alternatives and, for alternatives eliminated from detailed study, to briefly discuss the reasons for their having been eliminated (40 CFR 1502.14(a)). When there are potentially a very large number of alternatives, the BLM may only 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 developed a reasonable range of alternatives that meet the purpose and need of the RSFO PRMP/FEIS and that address resource issues identified during the scoping period. The RSFO PRMP/FEIS analyzed four alternatives and the PRMP, which are described in Chapter 2 (RSFO PRMP/FEIS pp. 2-1 through 2-134). The alternatives analyzed 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. The BLM considered an alternative that included removal of livestock grazing from all public lands in the planning area and that was ultimately eliminated from analysis, as it is inconsistent with policy objectives for the RSFO PRMP/FEIS (RSFO PRMP/FEIS p. 2-1).

Additionally, 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), 1502.1). The BLM is required to take a "hard look" at potential environmental impacts of adopting the RSFO 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 and alternatives.

NEPA also requires the BLM to "ensure the professional integrity, including scientific integrity, of the discussions and analyses in an environmental document" (42 U.S.C. 4332(d)). CEQ's regulations implementing NEPA further require that agencies use information that is of "high quality" (40 CFR 1500.1(b)). 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).

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. 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 BLM evaluated impacts on vegetation communities from grazing activities for all alternatives considered for analysis. This is described in Section 4.6 of the RSFO PRMP/FEIS (pp. 4-1 through 4-154) and Appendix U, Section 4.6 (pp. U-27 through U-34). As described in Appendix U, Section 4.6 (pp. U-27 through U-34), the impacts on vegetative communities from livestock grazing would be reduced under Alternative B compared to Alternative A due to the increased restrictions placed on livestock grazing under Alternative B; greater under Alternative C compared to Alternative A due to less-restrictive measures for range improvements, water developments, and salt and mineral placement; and the same as Alternative A under Alternative D and the PRMP.

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

NEPA: Impacts Analysis – Water Resources

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: The BLM also failed to sufficiently address comment #13624-94, which describes stream reaches listed in the Draft 2022/2024 IR that are within the Rocks Springs Planning Area. These streams should be identified in the RMP. Waters that were described in comment #13624-94 that were excluded in the FEIS include Little Sandy River (listed as impaired for sediment in 2012) and Lander Creek (listed as impaired for E. coli in 2020). To develop the most accurate analysis of water quality, all waters listed in the Draft 2022/2024 IR should be described. The absence of this content may result in an inaccurate description and The BLM failed to address comment# 13624-22, which identified the need to add DEQ/WQD plans to Table 1-2. The exclusion of the DEQ/WQD plans demonstrates a lack of due diligence by BLM to evaluate all current and readily available plans regarding water quality within the planning area to develop well-informed alternatives, the RMP, and the ROD. The plans DEQ/WQD referred to include the: * 2013 Nonpoint Source Management Plan and any subsequent versions; * Draft 2022/2024 Integrated 305(b) and 303(d) Report and any subsequent revisions; * Currently approved Total Maximum Daily Loads (TMDLs), including the Bitter Creek and Killpecker Creek TMDL for E.coli; and * Approved new or updated Watershed-Based Plans, including the Little Sandy River and Bitter Creek watershed-based plans. As the lead federal agency, the BLM has a legal obligation to substantively engage with cooperating agencies in the NEPA process. By failing to address comments and concerns regarding the DEQ’s authority, the BLM has not complied with this legal obligation.

Summary:

Protestors stated that the BLM violated NEPA by failing to evaluate all current and readily available plans regarding water quality by excluding several WDEQ/WQD plans from Table 1-2, and by failing to sufficiently respond to a comment that describes waters within the Rock Springs Planning Area that were not identified/described as impaired in the RMP.

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 all public comments submitted on the RSFO Draft RMP/EIS. The BLM complied with 40 CFR 1503.4 by performing a detailed comment analysis that assessed and considered all substantive comments received. Appendix W of the RSFO PRMP/FEIS presents the BLM’s response to public comments including those related to water resources, stating that Section 3.4.1 of the PRMP/FEIS was updated to include the following river sections classified as impaired: Bitter Creek, Killpecker Creek, and Trout Creek (RSFO PRMP/FEIS pp. 3-4 through 3-5). This section also refers the reader to WDEQ’s *Wyoming’s 2022/2024 Integrated 305(b) and 303(d) Report* and subsequent iterations for more information. Additionally, as described in Section 5.1.1, the BLM worked in conjunction with WDEQ as a cooperating agency to conduct impact analysis on water resources in the PRMP/FEIS. The cooperating agencies were formally invited to participate in developing the alternatives and to provide data and other information relative to their disciplines throughout the RMP development process.

The BLM complied with NEPA by adequately responding to public comments on the RSFO Draft RMP/EIS and properly involving all cooperating agencies in the development of the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

NEPA: Impacts Analysis – Wildlife

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM failed to make reasoned and informed decisions for big game migration corridors. The Proposed RMP and Final EIS’s treatment of big game migration corridors is non-compliant with NEPA, FLPMA, and current agency guidance. BLM failed to inventory and manage for the current big game migratory habitats in the Field office and to justify the proposed management through defensible, science-based analysis, thereby violating NEPA’s fundamental directive to “insure the integrated use of the natural and social sciences [...] in planning and decision-making”, FLPMA’s requirement to maintain an accurate inventory of public lands resources and values including wildlife habitat, and requirements under NEPA to take a hard look at impacts to wildlife habitat across a range of reasonable alternatives and utilizing an accurate environmental baseline. Additionally, the proposed big game migration corridor management detailed in MA’s 4421 and 4424 violate FLPMA’s multiple use and sustained yield mandate to make “the most judicious use of the land for some or all of these resources” and to avoid unnecessary or undue degradation.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: The Proposed RMP’s shortcomings on big game migration corridors are also inconsistent with governing policy recognizing the importance of wildlife habitat and corridor protection. In 2018, the Secretary of the Interior signed SO 336270, which directs the Department of the Interior to work with western states, including Wyoming, to enhance and improve big game winter range and migration corridors. This policy directive was further reinforced by the May 2021, *Conserving and Restoring America the Beautiful Report*, where the Biden-Harris administration committed to “Expand Collaborative Conservation of Fish and Wildlife Habitats and Corridors,” and continue with the implementation of SO 3362. SO, 3362 includes requirements to * Minimize development that would fragment winter range and primary migration corridors. * Utilize other proven actions necessary to conserve and/or restore the vital big-game winter range and migration corridors across the West. * Update all existing regulations, orders, guidance documents, policies, instructions, manuals, directives, notices, implementing actions, and any other similar actions to be consistent with the requirements in this Order. * Consult with State wildlife agencies and bureaus to ensure land use plans are consistent and complementary to one another along entire wildlife corridors where winter range or migration corridors span jurisdictional boundaries. In November 2022, BLM

released an instruction memorandum, “Habitat Connectivity on Public Lands,”⁷¹ that aims to “ensure habitat connectivity, permeability and resilience is restored, maintained, improved, and/or conserved on public lands.” The IM states, “areas of habitat connectivity should be addressed and appropriately analyzed in new land use plans and revisions.” More recently, in March 2023, the White House Council on Environmental Quality (CEQ) issued Guidance for Federal Departments and Agencies on Ecological Connectivity and Wildlife Corridors⁷² establishing a “national policy” to promote greater wildlife habitat connectivity as a means to “sustain the tremendous biodiversity that exists in the U.S. and enable wildlife to adapt to fluctuating environmental conditions, including those caused by climate change.” The guidance underscores the importance of proactive and early integration of wildlife connectivity considerations during planning and decision-making, ideally at the landscape level. The memo also states, “Federal agencies are expected to advance the objectives of this guidance by developing policies, through regulations, guidance, or other means, to consider how to conserve, enhance, protect, and restore corridors and connectivity during planning and decision-making, and to encourage collaborative processes across management and ownership boundaries.” Through the NEPA and planning processes, BLM must make informed management decisions based on sound scientific information, consistent with the policies articulated above. The management proposed for big game migration corridors is an unfortunate example of the agency failing to meet this standard by ignoring publicly available, peer-reviewed research documenting big game migrations in the Field Office using outdated population objectives for mule deer and pronghorn; and allowing types of development that research has clearly documented will harm the functionality of migration corridors. In addition to failing to use the best available research and data to inventory big game migratory habitats, BLM makes faulty assumptions and uses indefensible reasoning tying the management to the Biological Resources goals and objectives.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM’s inventory of big game migratory habitats is incomplete and its population objective data is outdated. The analysis underpinning the Proposed RMP and Final EIS comprehensively fails to acknowledge the existence of multiple big game migrations (for mule deer, pronghorn, and elk) that are documented by peer-reviewed, publicly available research published by the United States Geological Survey (USGS) that were provided to BLM through public comments and included in the administrative record. The Analysis of the Management Situation (2013), which the Proposed RMP purports is a “comprehensive description of the affected environment” lists “big game crucial winter ranges” and “parturition areas” as priority habitats associated with mule deer, pronghorn, Rocky Mountain elk, and moose in the planning area,⁷³ but does not list big game migration corridors. The Affected Environment section in the draft EIS was similarly silent and did not list migration corridors as a habitat type for pronghorn, mule deer, or Rocky Mountain Elk.⁷⁴ The agency edited this section in the Final EIS to solely include a reference to the Sublette Mule Deer migration corridor,⁷⁵ an arbitrary update given the current availability in published scientific literature and in the administrative record⁷⁶ of the existence of migratory habitat for the Sublette pronghorn,⁷⁷ Uinta-Cedar pronghorn,⁷⁸ South Wind River elk,⁷⁹ Wyoming Range North mule deer,⁸⁰ South Rock Springs elk,⁸¹ and South Rock Springs mule deer⁸² in the Field Office. There is no scientific justification for the agency to ignore these additional six migrations in the inventory of habitats detailed in the Affected Environment, especially after the single, highly inadequate update between draft and Final EIS for Sublette Mule Deer.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: The Affected Environment and AMS also fail to use current, easily accessible population objectives for big game herds in the Field Office. The agency had ample opportunity to update this data between the draft and Final EISs. Population objectives for the big game species that have migration corridor habitats in the Field Office are based on decades-old data in the Affected

Environment.⁸³ In the AMS, the population trends in abundance for these big game species relies on Wyoming Game and Fish Department (WGFD) population estimates that are upwards of 15 years outdated, including estimates from 2005, 2009 and 2011.⁸⁴ Conditions have changed--and for some herds, trending lower in population and farther from population objectives. The AMS reports that the Steamboat and South Wind River mule deer herds (now known as the Sublette Mule Deer herd) were at 65-75% of population objective, using data from 2009. In 2023, the Sublette mule deer herd is at 19,000 individuals, which is 40% below the population objective of 32,000 deer. The Sublette herd has been below the population objective since 2016. The Sublette pronghorn herd declined dramatically in 2023 to 20,500 animals, which is 57% below the population objective of 48,000. The harsh winter of 2022-23, coupled with a disease outbreak, impacted the herd. Yet this Proposed RMP relies on data from the AMS that reports the herd units that make up the Sublette Pronghorn herd were at 86% and 56% of their objective. Using such inaccurate and outdated population objective data, when updated information is easily available from the WGFD, and the incomplete inventory of migrations affected by decisions made in the RMP fails the hard look that NEPA demands.⁸⁵ The agency must use more defensible scientific data as the basis for big game habitat management decisions.⁸⁶

The Wilderness Society

Julia Stuble

Issue Excerpt Text: The GPS collar data and routes for the additional migrations in the Rock Springs Field Office has been published by the USGS and can be easily obtained by BLM. With this data, publicly available analytical tools at migrationinitiative.org can be used by agency biologists to model and map the migration corridor boundaries via the Brownian Bridge method. GIS specialists can also easily use the line-buffer method (now preferred by WGFD) to map the corridor boundaries. It is not justifiable, when the data and tools are publicly accessible, for the agency to wait for the State of Wyoming to identify corridors from the route data. Because more current scientific information exists and BLM recently showed how it can use that data to effectively protect migration corridors and other crucial big game areas, its reliance on outdated data from the 2013 AMS and the arbitrary inclusion of only one migration corridor in the proposed RMP and Final EIS is simply unacceptable.

The Wilderness Society

Julia Stuble

Issue Excerpt Text: Lastly, the management proposed for designated migration corridors in the Proposed RMP will degrade these crucial habitats and is out of touch with agency guidance, spelled out in SO 3362, BLM's IM "Habitat Connectivity on Public Lands" and CEQ's Guidance for Federal Departments and Agencies on Ecological Connectivity and Wildlife Corridors to take actions to enhance connectivity and wildlife movement (referenced above). BLM proposes to allow oil and gas leasing and development, and other types of disturbances, in a state-designated migration corridor. MA 4424 states: Allow fluid mineral surface occupancy and use within a WGFD designated big game migration corridor if the fluid mineral operator and the BLM arrive at an acceptable conservation plan for avoidance, minimization, rectification, and/or restoration within the migration corridor. The purpose of the conservation plan is to ensure that fluid mineral development activities are pursued in a manner that maintain habitat function and result in no significant declines in species distribution or abundance. The BLM will consult with the WGFD to evaluation the adequacy of the conservation plan prior to finalization. CSU for fluid minerals This MA will lead to degradation of mule deer and pronghorn migration corridors that are, or may be, designated; and will certainly lead to degradation of mule deer, pronghorn, and elk corridors that will not be designated by the state, as the RMP has no management prescriptions (or analysis or inventory) of the known migratory habitat for those species. In the Draft RMP, BLM proposed disallowing oil and gas surface occupancy in all (not just state designated) big game migration corridors. This is a more defensible approach that would avoid habitat fragmentation and degradation. In the draft RMP, MA 4424 stated: Identify and preserve wildlife species migration and travel corridors. Prohibit surface disturbing activities within ½ mile of

big game migration corridors to avoid constriction of current or future identified big game migration corridors. Manage as 1) NSO for fluid minerals; 2) closed to mineral material sales; 3) closed to all solid mineral leasing While imperfect-our draft comments pointed out there is no scientific basis for the ½ mile buffer and how NSO stipulations could be more closely tailored to crucial corridor components (bottlenecks, high use areas, and stopover sites)-this management proposal is more defensible for BLM to avoid unnecessary or undue degradation of wildlife habitats.

Summary:

Protestors state that the BLM violated FLPMA and NEPA by:

- Failing to inventory and manage for the current big game migratory habitats in the planning area, and failing to scientifically justify the proposed management actions related to big game migration.
- Failing to consult and coordinate with State wildlife agencies and bureaus for big game migratory corridors in the planning area and across boundaries.
- Failing to use the “most up-to-date” data for analysis of big game populations and migration corridors.
- Proposing management for designated migration corridors that will degrade crucial habitats, contradicting agency guidance, as it allows oil and gas development in State-designated migration corridors.

Response:

Section 302(a) of FLPMA directs the BLM to manage public lands on the basis of multiple use and sustained yield, unless otherwise provided by law (43 USC 1732(a)). 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.

FLPMA’s multiple-use policy does not require that all uses be allowed on all areas of the public lands. Rather, the BLM has wide latitude to allocate the public lands to particular uses, 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 and undue degradation. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses that involves tradeoffs between competing uses.

All alternatives considered in the RSFO PRMP/FEIS, as described in Chapter 2, provide an appropriate balance of uses on the public lands. Chapter 2 Management Actions 4419 through 4427 (pp. 2-41 through 2-42) provide management for big game under each alternative and Management Actions 7555 through 7562 (p. 2-131) provide management for the Big Game Management Corridor ACEC under each alternative. All alternatives allow some of level of all uses present in the planning area in a manner that is consistent with applicable statutes, regulations, and BLM policy. The affected environment for current big game populations is described in Chapter 3, Section 3.7.1 (RSFO PRMP/FEIS pp. 3-7 through 3-8). Analysis of impacts of each of the management actions in these alternatives is found in Chapter 4, Section 4.7, *Wildlife and Fisheries* (RSFO PRMP/FEIS pp. 4-34 through 4-49), and Appendix U, Section 4.7 (pp. U-34 through U-49).

NEPA requires the BLM to “ensure the professional integrity, including scientific integrity, of the discussions and analyses in an environmental document” (42 U.S.C. 4332(d)). CEQ’s regulations implementing NEPA further require that agencies use information that is of “high quality” (40 CFR 1500.1(b)). The BLM NEPA Handbook also directs the BLM to “use the best available science to support NEPA analyses and give greater consideration to peer-reviewed science and methodology

over that which is not peer-reviewed” (BLM Handbook H-1790-1, p. 55). Under the BLM’s guidelines for implementing the Information Quality Act, the BLM applies the principle of using the “best available” data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012).

The BLM continues to utilize the “best available science” and works in conjunction with WGFD regarding crucial winter ranges, parturition, and big game migration corridors. The RSFO PRMP/FEIS recognizes Wyoming’s responsibility and authority to manage wildlife and consulted with WGFD as a cooperating agency throughout the planning process (RSFO PRMP/FEIS p. 5-3). WGFD identifies big game crucial winter ranges, parturition areas, migration corridors, and transitional habitats (RSFO PRMP/FEIS p. 1-4). Additionally, big game Management Actions 4419 through 4427 (pp. 2-41 through 2-42) emphasize the collaboration between the BLM and WGFD in designating and managing big game migration corridors. The RSFO PRMP/FEIS also includes a bibliography in Volume 2 titled *Literature Cited* (pp. LC-1 through LC-6), which lists information considered by the BLM in its identification and analysis of crucial winter ranges, parturition, and big game migration corridors including WGFD’s Wyoming Comprehensive Wildlife Conservation Strategy.

The RSFO PRMP/FEIS satisfies FLPMA’s multiple-use policy. The BLM considered a reasonable range of alternatives in the RSFO PRMP/FEIS in full compliance with NEPA. The BLM also relied on high-quality information and the best available data in preparation of the RSFO PRMP/FEIS. The BLM properly involved all cooperating agencies in the development of the RSFO PRMP/FEIS and complied with NEPA’s requirement to analyze the environmental consequences and impacts on wildlife and big game in the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

NEPA: Range of Alternatives

The Wilderness Society

Julia Stuble

Issue Excerpt Text: Additionally, BLM failed to consider as a reasonable alternative adopting an emissions management framework. Of primary importance is reducing GHG emissions stemming from future fossil energy production in the planning area. This framework should include achieving net zero GHG emissions from fossil fuels in the planning area by 2030 and a continuing decline curve of fossil fuel development and production thereafter until zero emissions are realized.¹⁶⁴ The emissions management framework would entail calculating, tracking, and publicly disclosing lifecycle emissions of development and production (and potential development and production), which BLM could then use to guide land management and fossil fuel-related decisions. As explained in our comments, TWS developed a framework to demonstrate how achieving net zero emissions is feasible and reasonable, while providing for a just and equitable transition for affected communities.¹⁶⁵ This emissions management framework to reduce (and ultimately eliminate) GHG emissions from fossil fuel development and production is consistent with FLPMA’s multiple use mandate, requiring BLM to manage resources “without permanent impairment of the productivity of the land and quality of the environment.”¹⁶⁶ Reducing greenhouse gas emissions is also important for preventing “unnecessary or undue degradation of the lands.”¹⁶⁷ The emissions management framework means that the Rock Springs RMP would follow the mitigation hierarchy of avoiding, minimizing, and offsetting emissions. BLM would prioritize avoiding emissions from new leasing and making new permitting decisions based in part on a project’s GHG emissions profile. Concurrent with developing and implementing the framework, BLM would include measures to assist those currently reliant on fossil energy development and production jobs with a fair transition to balance reducing oil and gas leasing and permitting with the need to account for the impact on affected communities.

Western Watersheds Project***Dagny Signorelli***

Issue Excerpt Text: Additionally, the FEIS must consider a full range of alternatives to mitigate environmental impacts, 40 C.F.R. § 1502.14, including potential reductions in livestock grazing or more stringent management controls. The failure to seriously consider these alternatives undermines NEPA’s goal of informed decision-making and violates the requirements outlined in 43 C.F.R. § 46.420.

Sweetwater County Board of County Commissioners***Keaton West***

Issue Excerpt Text: The Proposed RMPA and FEIS fails to consider a reasonable range of alternatives for off-highway vehicle (“OHV”) area designations in violation of the National Environmental Policy Act (“NEPA”). See RMPA and FEIS at 2-86 (Mgmt. Action #6607). a. Sweetwater County raised this issue in its January 16, 2024, comments on the Proposed RMPA and DEIS. The Coalition of Local Governments raised the issue of developing additional areas for OHV use in the planning area in its scoping comments and January 2013 comments on the Alternatives Development Table, as well as addressed the range of alternatives in its January 2024 comments on the DEIS.

Sweetwater County Board of County Commissioners***Keaton West***

Issue Excerpt Text: BLM FAILED TO PROVIDE A RANGE OF ALTERNATIVES FOR OFF-HIGHWAY VEHICLE AREA DESIGNATIONS IN VIOLATION OF NEPA. NEPA requires agencies to consider a “reasonable range of alternatives” to a proposed action in an EIS. 42 U.S.C. § 4332(2)(C)(iii); 40 C.F.R. § 1502.14(a); *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 703 (10th Cir. 2009). An agency must “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C. § 4332(2)(H). While an agency does not need to consider every alternative, “[t]he existence of a viable but unexamined alternative renders an environmental impact statement inadequate.” *Or. Natural Desert Ass’n v. Bureau of Land Mgmt.*, 625 F.3d 1092, 1122 (9th Cir. 2010). The need to consider a range of alternatives applies to the management actions associated with the designation of off-highway vehicle (“OHV”) areas within an RMP. *Id.* at 1123. “Striking the proper balance with regard to [OHV] use is thus of considerable importance to the BLM’s land management planning” because of the impact it has on public land resources and how such designation can alter the outdoor recreation experiences. *Id.* And the effect of a Plan’s approval of OHV designations are “immediate and sweeping,” because “[t]he approval of a [RMP] . . . constitutes formal designation of off-road vehicle use areas.” *Id.* (quoting 43 C.F.R. § 8342.2(b)). The Proposed RMPA fails to consider a reasonable range of alternatives for OHV area designations. Under the current Green River RMP, the OHV designations are as follows: 12,831 acres open; 225,537 acres closed; 968,959 acres limited to designated roads and trails; and 2,398,839 acres limited to existing roads and trails. RMPA and FEIS at 2-86 (Mgmt. Action #6607). All the other alternatives propose the same OHV designations: 12,831 acres open; 225,537 acres closed; and 3,367,576 acres limited to designated roads and trails. *Id.* There is no difference in the alternatives, let alone a “reasonable range” of alternatives in this DEIS. See *Or. Natural Desert Ass’n*, 625 F.3d at 1123-24 (Off-road vehicle analysis was flawed for failing to consider “no alternative that proposed closing more than a fraction of the planning area to ORV use.”); see also *Ctr. for Biological Diversity v. Bureau of Land Mgmt.*, 746 F. Supp. 2d 1055, 1088- 89 (N.D. Cal. 2009) (“All alternatives were based on the same OHV route network, and thus do not provide a truly meaningful range of alternatives.”)....There is also no documentation or mapping of the existing network of designated roads and trails in the Rock Springs Field Office included with this FEIS. Even if travel management planning will occur at a later date, the BLM is still required to “document [within the RMP] the decision-making process used to develop the initial network; provide[] the basis for future

management decisions; and set[] guidelines for making transportation network adjustments throughout the life of the plan.” BLM Handbook 8242 at p. 17 (Mar. 16, 2012). This includes assessing the current ground transportation linear feature database during the pre-planning stage and producing a “map of the known and existing network of transportation linear features, includes modes of travel.” *Id.* at pp. 9, 17; BLM Manual 1626, Section 3.5 (Sept. 27, 2016). The BLM must work collaboratively with cooperating agencies to develop a reasonable range of alternatives for OHV area designations and issue a supplemental EIS to allow for adequate public commenting on the alternatives.

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: The Proposed RMPA and FEIS fails to consider a reasonable range of alternatives for off-highway vehicle (“OHV”) area designations in violation of the National Environmental Policy Act (“NEPA”). See RMPA and FEIS at 2-86 (Mgmt. Action #6607).

Coalition of Local Governments - Wyoming

Eric South

Issue Excerpt Text: Proposed RMPA and FEIS Fails to Consider a Reasonable Range of Alternatives for OHV Designations in Violation of NEPA BLM must provide a reasonable range of alternatives to address OHV area designations. NEPA requires agencies to consider a “reasonable range of alternatives” to a proposed action in an EIS. 42 U.S.C. § 4332(2)(C)(iii); 40 C.F.R. § 1502.14(a); *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 703 (10th Cir. 2009). An agency must “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C. § 4332(2)(H). The need to consider a range of alternatives applies to the management actions associated with the designation of OHV areas within an RMP. *Or. Natural Desert Ass’n v. Bureau of Land Mgmt.*, 625 F.3d 1092, 1123 (9th Cir. 2010). “Striking the proper balance with regard to [OHV] use is thus of considerable importance to the BLM’s land management planning” because of the impact it has on public land resources and how such designation can alter the outdoor recreation experiences. *Id.* And the effect of a Plan’s approval of OHV designations are “immediate and sweeping,” because “[t]he approval of a [RMP] . . . constitutes formal designation of off-road vehicle use areas.” *Id.* (quoting 43 C.F.R. § 8342.2(b)). Under the current Green River RMP, the OHV designations are as follows: 12,831 acres open; 225,537 acres closed; 968,959 acres limited to designated roads and trails; and 2,398,839 acres limited to existing roads and trails. RMPA and FEIS at 2-86 (Mgmt. Action #6607). All the other alternatives propose the same OHV designations: 12,831 acres open; 225,537 acres closed; and 3,367,576 acres limited to designated roads and trails. *Id.* There is no difference in the alternatives, let alone a “reasonable range” of alternatives in this FEIS. See *Or. Natural Desert Ass’n*, 625 F.3d at 1123-24 (Off-road vehicle analysis was flawed for failing to consider “no alternative that proposed closing more than a fraction of the planning area to ORV use.”); see also *Ctr. for Biological Diversity v. Bureau of Land Mgmt.*, 746 F. Supp. 2d 1055, 1088-89 (N.D. Cal. 2009) (“All alternatives were based on the same OHV route network, and thus do not provide a truly meaningful range of alternatives.”). The BLM severely limits areas open for OHV travel and provides no opportunity for growth in this popular recreational activity. The BLM must consider additional alternatives that consider providing more OHV opportunities in the planning area.

Corey Roberts

Issue Excerpt Text: Proposed RMPA and FEIS Fails to Consider a Reasonable Range of Alternatives for OHV Designations in Violation of NEPA BLM must provide a reasonable range of alternatives to address OHV area designations. NEPA requires agencies to consider a “reasonable range of alternatives” to a proposed action in an EIS. 42 U.S.C. § 4332(2)(C)(iii); 40 C.F.R. § 1502.14(a); *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 703 (10th Cir. 2009). An agency must “study, develop, and describe appropriate alternatives to recommended

courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” 42 U.S.C. § 4332(2)(H). The need to consider a range of alternatives applies to the management actions associated with the designation of OHV areas within an RMP. *Or. Natural Desert Ass’n v. Bureau of Land Mgmt.*, 625 F.3d 1092, 1123 (9th Cir. 2010). “Striking the proper balance with regard to (OHV) use is thus of considerable importance to the BLM’s land management planning” because of the impact it has on public land resources and how such designation can alter the outdoor recreation experiences. And the effect of a Plan’s approval of OHV designations are “immediate and sweeping,” because “[t]he approval of a [RMP]... constitutes formal designation of off-road vehicle use areas.” (quoting 43 C.F.R. § 8342.2(b)). Under the current Green River RMP, the OHV designations are as follows: 12,831 acres open; 225,537 acres closed; 968,959 acres limited to designated roads and trails; and 2,398,839 acres limited to existing roads and trails. RMPA and FEIS at 2-86 (Mgmt. Action #6607). All the other alternatives propose the same OHV designations: 12,831 acres open; 225,537 acres closed; and 3,367,576 acres limited to designated roads and trails. There is no difference in the alternatives, let alone a “reasonable range” of alternatives in this FEIS. See *Or. Natural Desert Ass’n*, 625 F.3d at 1123-24 (Off-road vehicle analysis was flawed for failing to consider “no alternative that proposed closing more than a fraction of the planning area to ORV use.”); see also *Ctr. for Biological Diversity v. Bureau of Land Mgmt.*, 746 F. Supp. 2d 1055, 1088-89 (N.D. Cal. 2009) (“All alternatives were based on the same OHV route network, and thus do not provide a truly meaningful range of alternatives.”). The BLM severely limits areas open for OHV travel and provides no opportunity for growth in this popular recreational activity. The BLM must consider additional alternatives that consider providing more OHV opportunities in the planning area.

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: In Appendix R, the agency’s abbreviated analysis of an Appropriate Management Level to sustain wild horses is arbitrary and capricious because it assumes no change to livestock stocking densities. Under 43 C.F.R. § 4710.5, the agency has full authority to close a wild horse HMA to all or a particular class of livestock, yet the BLM fails to consider this reasonable alternative in the setting of Little Colorado Desert AMLs. The Rock Springs proposed RMP would set the AML for the Little Colorado HMA at Restricting wild horses to a maximum population size of 100 animals fails to maintain genetically viable populations of wild horses on the Little Colorado HMA. The agency cites to H-4700-1 to support the proposition that an AML range of 69 to 100 animals (FEIS at 2-51) is appropriate. “To avoid inbreeding depression in wild horse populations, a minimum herd size of 50 effective breeding animals (a total population size of about 150-200 animals) is recommended.” FEIS at R-4. However, both low and high AMLs proposed are below the Handbook-specified minimum threshold of 150 animals. And, typically, wild horse roundups set Low AML as the target for gathers, meaning in this case that a low-AML threshold of 69 total horses would be the genetic basis for the entire herd moving forward. In addition, the Handbook target of effective population size of 50, and also the target of total population of 150-200 animals, are both out of step with current science regarding wild horses (and other species). Frankham (2014, Attachment 7) found that an effective population size of 100 animals is necessary to maintain genetic population viability, superseding the previous (and now obsolete) standard of 50. For wild horses in particular, Singer et al. (2000, Attachment 8) derived a correction factor of 0.36 for deriving effective population size from a total wild horse population; back-calculating, this means that to achieve an effective population size of 100 to provide genetic viability, it is necessary to maintain at least 278 wild horses on the landscape. (This assumes the conservative case of many, small harems; a second calculation is provided for fewer, large harems that yields an even higher total population size required to achieve population viability). This minimum viable population is the floor, not the ceiling, so in effect the low AML for a wild horse population cannot be set below 278 animals and expect to maintain genetic viability. The BLM states that the Little Colorado Herd does not currently have genetic viability problems under the present AML (FEIS at R-4), but does not provide any data to support this or even

reference a genetic assay that has been undertaken; these are NEPA ‘hard look’ problems. The agency also provides no information regarding total population size fluxes for the Little Colorado HMA, another hard look issue. It is necessary to present (for the public) and consider (for the agency) the extent to which the population size of this herd has been brought down to, or has approached, high or low AMLs in order to disclose the extent to which the AML’s effect on genetic viability has been tested by approaching the AML levels, or not.

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: The EIS Fails to consider expanding wild horse AMLs In public comments, an alternative was raised to expand wild horse HMAs, based on the fact that all HMAs existing in 2020 were meeting the thriving natural ecological balance threshold at their then-present populations (an aggregate of more than 5,000 horses). Allowing wild horses to be managed at 2020 population levels is inherently reasonable, given that these population levels were compliant with Wild Horse and Burro Act direction that BLM manage populations to meet a thriving natural ecological balance. The alternative would provide greater wild horse viewing opportunities for the public, might at some point entail a lessened stocking of private livestock on the same public lands, but overall would fit easily within the agency’s FLPMA multiple-use mandate. Even if these areas had not been meeting the thriving natural ecological balance threshold, BLM has the opportunity to close HMAs to domestic livestock to improve ecological conditions. Under 43 C.F.R § 4710.5, the BLM has the authority to close wild horse Herd Management Areas to all or a specific class of livestock, either permanently or temporarily. BLM declined to close the entire planning area to livestock grazing under any alternative, stating that present resource conditions did not warrant closing the entire Rock Springs Field Office. FEIS at 2-2. BLM has apparently not considered closing all wild horse Herd Management Areas, as they existed at the onset of the planning process (some have been eliminated, but these eliminations are under legal challenge and could be vacated by the court), to domestic livestock. This would be a more limited closure of public lands to livestock, yet even this lesser level of closure is beyond the range of alternatives considered in detail under the EIS. In the Little Colorado HMA, BLM set an AML of 69 to 100 horses in every single alternative considered in detail. FEIS at 2-51. This is a total and abject failure to consider a range of reasonable alternatives for population limits and targets for this population. As discussed above, this AML level is too low to maintain a genetically viable population of wild horses, so the agency failed to consider even a single alternative that would comply with science-based minimum viable population standards, or even its own weaker policy guidance in Handbook H-4700-1. This AML is explicitly contradictory to subsequent plan guidance to “maintain[] viable, healthy wild horse herds.” See FEIS at 2-52).

Western Watersheds Project

Dagny Signorelli

Issue Excerpt Text: The EIS fails to consider expanding wild horse HMAs in areal extent The agency declined to establish new wild horse HMAs within the planning area (FEIS at 2-2), but apparently never considered expanding existing wild horse HMAs to encompass Herd Areas previously managed for wild horse conservation, per NEPA’s range of alternatives requirements. Under the Wild Horse and Burro Act, the agency is required to consider wild horses “in the area where presently [1971] found, as an integral part of the natural system of the public lands.” Clearly, Herd Areas adjacent to HMAs existing as of 2020 were lands where wild horses were found in 1971; indeed, wild horses are presently found in these Herd Areas today. It would be perfectly reasonable to expand wild horse HMAs to encompass these lands; indeed, this would allow wild horses to spread out over a larger acreage, legally, with fewer horses per acre. And it would make BLM management better reflect realities on the ground, particularly in the absence of barriers between public lands designated as HMAs and those presently designated as HAs.

Summary:

Protestors stated the BLM violated NEPA by failing to consider a reasonable range of alternatives. Specifically, protestors stated the BLM failed to consider an emissions management framework proposed during the public comment period, a full range of livestock grazing alternatives, and a reasonable range of alternatives for wild horse management, stating the BLM did not use the most up-to-date data for the analysis of wild horse Herd Management Area (HMA) populations within the Little Colorado Desert Appropriate Management Levels (AML). Finally, protestors stated the BLM failed to consider a full range of alternatives for OHV designations including limiting areas open for OHVs and not providing sufficient documentation or mapping of the existing network of designated roads and trails in the RSFO.

Response:

When preparing an EIS, NEPA requires that an agency must analyze a reasonable range of 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, at 50 [citing Question 2a, CEQ, Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, March 23, 1981]; see also 40 C.F.R. 1502.14).

Additionally, agencies are allowed to dismiss an 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 agency must also briefly discuss the reasons for having dismissed the alternative from detailed analysis (40 CFR 1502.14).

The BLM considered the emissions management framework proposed as an alternative during the public comment period. However, the BLM did not analyze this alternative in detail because an emissions management framework is outside the scope of the RSFO PRMP/FEIS. See Section 1.4 for the Planning Criteria the BLM followed during the analysis of the RMP (RSFO PRMP/FEIS pp. 1-4 through 1-5), and Appendix E for a list of Federal laws, regulations, and policies that apply to the BLM during this process (RSFO PRMP/FEIS pp. E-1 through E-17). However, a full range of alternatives for air quality management has been proposed in the RSFO PRMP/FEIS. See Chapter 4, Section 4.3 (pp. 4-3 through 4-13), and Appendix U, Section 4.3 (pp. U-1 through U-9), for an analysis of the potential impacts from implementation of management under all alternatives on air quality.

The BLM developed a reasonable range of alternatives that meet the purpose and need of the RSFO PRMP/FEIS and that address resource issues identified during the scoping period. The RSFO PRMP/FEIS analyzed four alternatives and the PRMP, which are described in Chapter 2 (RSFO PRMP/FEIS pp. 2-1 through 2-133). The alternatives analyzed in the RSFO PRMP/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. In addition, Appendix V presents an overview of the alternatives development process (Appendix V, Sections 2.2.1, 2.2.2, and 2.2.3) and the range of alternatives (Appendix V, Section 2.2.5).

Several alternatives were considered but eliminated from detailed analysis, which included a blanket closure to livestock leasing, new wild horse and burro HMAs, closure to fluid mineral leasing, and closure to coal leasing (RSFO PRMP/FEIS pp. 2-1 through 2-2). As outlined in Section 2.2.4, *Alternatives Considered but Eliminated from Detailed Analysis*, alternatives were excluded from detailed analysis because they were either ineffective in addressing the purpose and need, technically or economically impractical, inconsistent with fundamental policy objectives for managing the area (e.g., conflicting with laws governing BLM-administered lands in the planning area), speculative or unlikely to be implemented, closely resembled an alternative already analyzed, or would result in effects similar to those of an alternative that has been thoroughly evaluated. The protest noting the BLM failed to consider expanding wild horse HMAs is referring to the 2023 ROD Wild Horse Amendment, not the RSFO PRMP/FEIS. All management actions from that amendment have been incorporated into the RSFO PRMP/FEIS. Only two HMAs are evaluated in RSFO PRMP/FEIS: the Little Colorado HMA and White Mountain HMA (pp. 3-14 and 4-67 through 4-72).

Regarding a reasonable range of alternatives for OHV designations, management actions by alternative for OHV use have been provided in Chapter 2, Management Actions 6600 through 6620 (RSFO PRMP/FEIS pp. 2-86 through 2-88). See Maps 2-25, 2-26, 2-27, and 2-28 for OHV area designations by alternative (RSFO PRMP/FEIS Volume 1, PDF pp. 408 through 412). Please refer to the *Glossary* for clarification on the important differences between the definitions of “Closed,” “Closed Area or Trail,” “‘Closed’ Designation (OHV),” “Closed Road,” “Designated Roads and Trails,” “Off-Highway Vehicle Management Designations,” “OHV Closed Route,” “OHV Open Route,” and “OHV Limited Route” (RSFO PRMP/FEIS Volume 2, pp. GL-1 through GL-36). The range of alternatives presented in the RSFO PRMP/FEIS are adequate for designating OHV “open” areas and further route designations will be made in an implementation-level Travel and Transportation Management Plan, which is outside the scope of the RMP and will be evaluated separately.

The BLM considered a reasonable range of alternatives in the RSFO PRMP/FEIS, including properly considering all alternatives submitted by the public, and is in full compliance with NEPA. Therefore, this protest issue is denied.

NEPA: Response to Public Comments

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: During the comment period for the DEIS, DEQ raised the question regarding Table 1-1 as to why approximately 278,000 acres are located outside, but adjacent to, the RMP boundary were included in the planning area. Upon review of the FEIS, Table 1-1 indicates that the planning area acreage has been reduced by approximately 341,000 acres, however there is no explanation within the FEIS as to the discrepancy between the DEIS planning area and the FEIS planning area. (Attachment B) This unaddressed change of foundational information calls into question the credibility of the entire FEIS.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: Surface Water Classifications. The BLM failed to sufficiently address comment #13624-91 that requests BLM clarify all surface waters of the state have Water Quality Standards, not just those listed in the Wyoming Surface Water Classification List. The Wyoming Environmental Quality Act gives authority to the DEQ to protect all waters of the state³. Wyoming Water Quality Rules, Chapter 1, Wyoming Surface Water Quality Standards, are applicable to all surface waters of the state. In addition, the BLM failed to accurately describe the water quality standards assigned to

waterbodies in Wyoming by not clarifying that the antidegradation requirements for Class 2 and Class 3 waters are less restrictive than those associated with Class 1 waters. The BLM should revise statements on page 3-4 of the FEIS to (1) clarify antidegradation requirements associated with different waterbody classes and (2) describe and list classifications consistent with Wyoming Water Quality Rules, Chapter 1, Wyoming Water Quality Standards.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: Incorrect classification of Big Sandy River The BLM failed to sufficiently address Comment #13624-92 that describes BLM’s description of the Big Sandy River as “the most notable portion of Class 2 water.” WQD requested this statement be removed or revised because it is unclear what BLM means by “notable,” and there are several Class 2 waters in the planning area. Moreover, the statement appears to confuse Class 2 waters as defined in Wyoming’s Surface Water Quality Standards with Category 2 waters identified in Wyoming’s Draft 2022/2024 Integrated 305(b) and 303(d) Report (IR). A 42-mile reach of Big Sandy Reservoir was identified as a Category 2 within the IR. Category 2 waters are those where “at least 1 designated use is supported, and support of the other designated uses are unknown.” Class 2 waters within Wyoming’s Surface Water Quality Standards are those designated for drinking water, cold water game fish, nongame fish, aquatic life other than fish, fish consumption, recreation, industry, agriculture, wildlife, and scenic value uses. Category 2 and Class 2 are not interchangeable. The BLM should revise the RMP and ROD to accurately describe surface waters within the Rock Springs Management Area.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: Disregard for Cooperator Agency Comments Many of the comments submitted by DEQ during the DEIS comment period were not adequately addressed by the BLM. Rather than incorporate the numerous, specific suggestions DEQ provided in regards to DEQ rules and regulatory authorities, BLM responded with general, boilerplate responses regarding cooperation between agencies, however this still does not address DEQ’s concerns. As such, this raises the potential for future conflicts between BLM and DEQ if DEQ’s regulations and regulatory authority are not adequately acknowledged. Given its authority and responsibility to administer environmental and regulatory programs to protect Wyoming’s water quality, the DEQ is alarmed that the BLM failed to acknowledge and address DEQ’s comments on the DEIS. Doing so would have helped ensure the FEIS had robust water quality analysis and was consistent with Wyoming Water Quality Rules. Because BLM failed to acknowledge and address DEQ’s comments, the FEIS does not sufficiently and accurately evaluate water quality within the planning area, nor does it take into consideration the applicable water quality rules. In order to provide a meaningful environmental analysis under NEPA, the BLM RSFO must include a comprehensive and accurate water resource analysis that considers applicable regulations. The inadequacy of the water quality analysis in the FEIS reflects BLM’s insufficient collaboration with the DEQ as the state agency with authority to regulate and protect water quality in Wyoming.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: The BLM failed to address multiple DEQ/Water Quality Division (WQD) comments⁴ regarding the need to acknowledge and incorporate the authorities held by the DEQ/WQD. The BLM consistently used the following response to DEQ’s comments regarding the need to include DEQ’s authority and requirements: “See Chapter 1.4 Planning Criteria and Chapter 5.1 and 5.1.1 for compliance with applicable laws, and consultation and coordination with other agencies.” BLM’s response is insufficient for several reasons. Although 5.1.1 indicates that the DEQ is a cooperating agency in the planning process, Chapter I .4 does not include Wyoming Water Quality Rules within the planning criteria for the FEIS. In addition, Chapter 5.1 describes that

“Coordination with the U.S. Environmental Protection Agency (EPA) has occurred throughout the RMP amendment process by phone and through various meetings.” While coordination with EPA is important during the NEPA process, coordination with EPA is not sufficient to address the comments and concerns provided by the DEQ/WQD. As described above, the DEQ has authority to protect Wyoming’s water quality through environmental and regulatory programs established under the Wyoming Environmental Quality Act and the Clean Water Act and Safe Drinking Water Act programs that have been delegated to Wyoming. As just two examples, DEQ has delegated authority for the Safe Drinking Water Act Underground Injection Control Program (Class I, III, IV, V, and VI wells) and the Clean Water Act National Pollutant Discharge Elimination System Program. BLM must (1) acknowledge the DEQ’s authority and the need to coordinate with the DEQ/WQD within the RMP and ROD and (2) include Wyoming’s Water Quality Rules and other DEQ/WQD regulatory requirements within the planning criteria. Without these changes, the RMP fails to adequately describe the appropriate authorities and the applicable water quality requirements.

Wyoming Department of Environmental Quality

Ross Breedlove

Issue Excerpt Text: The BLM also did not address DEQ’s Concern (comment 13624-72) that compliance with Wyoming Water Quality Rules was removed from Management Action 1303. It is not clear why BLM revised Management Action 1303, as the BLM is required to comply with Wyoming Water Quality Rules. Not including Wyoming Water Quality Rules within Management Action 1303 creates the potential for noncompliance with DEQ/WQD requirements when BLM begins to apply the RMP to projects. To address this issue, BLM must revise Management Action 1303 to include compliance with Wyoming Water Quality Rules within the RMP and ROD.

Wyoming Oil and Gas Conservation Commission

Tom Kropatsch

Issue Excerpt Text: WOGCC’s comment 13658-21 describes how applying blanket NSO’s can be harmful to the landscape and special status species creating deficiencies in BLM’s analysis. BLM summarily ignored this comment, referring to sections that contain no related analysis. In comment 13658-29 WOGCC describes how BLM’s methodology was inadequate and incorrect as it relates to the RFD and by extension the Socioeconomic analysis. BLM, yet again, ignored the comment and simply referred to the methodology that the WOGCC comment showed was flawed instead of fixing the methodology. This letter illustrates that BLM did not respond to the vast majority of comments made by WOGCC in a manner that meets the requirements of 40 CFR 1503.4 or BLM simply ignored WOGCC’s comments. BLM’s analysis in the EIS is woefully inadequate (e.g. stating that 935,135 is a larger number than 286,470 in Section 4.21.3) or provides quantitative analysis based on outdated inputs that are known to be erroneous (e.g. everything calculated based on the RFD). WOGCC requests that BLM rescind the final EIS and prepare a new draft EIS with cooperators that complies with applicable regulations.

Wyoming County Commissioners Association

Triston Rice

Issue Excerpt Text: The BLM’s response to WCCA’s concerns regarding the socioeconomic impacts of the RMP is inadequate. The WCCA identified substantial deficiencies in the socioeconomic analysis presented in the Draft RMP (Comment #13953-10 through #13953-13), particularly regarding the economic consequences of increasing and overlapping restrictions on mineral and energy development. However, instead of addressing these critical concerns that are not addressed in the technical socioeconomic report in Appendix N, the BLM in its responses simply refer to Glossary definitions or relatively unaltered sections of the FEIS, without directly responding to the core issues we raised. To add insult to injury, it is evident the BLM did not perform a thorough economic analysis for the new proposed RMP which can be seen in the numerous tables within the

technical socioeconomic report that show economic impacts of the proposed RMP are somewhere between Alternative Band Alternative D.

Sweetwater County Board of County Commissioners

Keaton West

Issue Excerpt Text: BLM FAILED TO RESPOND TO SWEETWATER COUNTY’S COMMENTS TO THE DEIS IN VIOLATION OF NEPA. NEPA requires the BLM to “respond to comments” on the draft EIS and “discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency’s response to the issues raised.” 40 C.F.R. § 1502.9(c); see also 40 C.F.R. § 1503.4. The FEIS must “state how alternatives considered in it and decisions based on it will or will not achieve the requirements of [NEPA] and other environmental laws and policies.” 40 C.F.R. § 1502.2(d). Comments that highlight discrepancies between the action and the statutory framework deserve explicit and direct response. *Am. Wild Horse Pres. Campaign v. Zinke*, 2017 WL 4349012, at *13 (D. Idaho Sept. 29, 2017), appeal dismissed sub nom. *Am. Wild Horse Pres. Campaign v. Jewell*, 2017 WL 7796295 (9th Cir. Dec. 13, 2017). Instead of providing any substantive response to the comments raised, the BLM generally directed commentors to specific sections of the DEIS in response to any issues raised. This occurred even when the comment was specifically objecting to the same section. The following are examples of the BLM’s response to comments: * In response to Sweetwater County’s comment about the BLM’s failure to address the underlying resources when designated VRM Class II areas, the BLM states: “See DEIS Volume 1 Chapter 3.14.1 ‘Existing Visual Resource Management Classifications’ for an explanation of methodology and BLM handbook involved in designating [VRM] Classes. See DEIS Glossary definition for ‘[VRM]’ for idea of what projects could be permitted in each class. See DEIS Volume I Maps 2- 17 through 2-20 for a range of alternatives analyzed regarding [VRM] Classes throughout the field office. RMPA and DEIS at W-197 (Comment ID # 13858-40).

Petroleum Association of Wyoming & Western Energy Alliance

Colin McKee

Issue Excerpt Text: The Associations are protesting this PRMP because the State Director failed to address our substantive comments submitted on the draft RMP. The Association’s comments provided clear facts, referenced pertinent white papers and offered analysis of the current operational aspects of the oil and natural gas industry, which was glaringly misrepresented in the draft RMP and led to poor decision making on behalf of the BLM. The State Director failed to consider the advancements of this industry, including its lessening footprint and fragmentation on the landscape due to advancements in technology; and the corollary progress that continues to be made in reclamation, which now often results in habitat more suitable for wildlife and ecosystems than reference, unreclaimed lands. Instead, the BLM is proposing a substantial increase of lands closed to future oil and natural gas leasing, increased stipulations on other acreage and an increase in rights-of-way exclusion and avoidance areas. The Associations identified egregious errors and outdated data the BLM used to form its analysis. Flawed data was identified, most notably the BLM’s Reasonably Foreseeable Development (RFD) of oil and natural gas wells, 14-year-old active lease information shown on Map 3-8 and incorrect boundaries of a designated migration corridor. The use of these flawed data and projections makes the State Director’s assumptions of impacts among alternatives, selection of preferred management actions and determination to designate Areas of Critical Environmental Concern (ACEC), misguided. The BLM failed to justify why current management activities are incapable of protecting resource relevance and importance criteria within ACECs proposed for designation. This includes the fact that the BLM failed to provide a critique of the management actions in the current RMP, the state of Wyoming executive order managing Greater Sage-Grouse (GRSG) species and its habitat, ancillary BLM RMPs managing GRSG habitat, the state of Wyoming executive order on ungulate migration corridors, other BLM regulations and state programs charged to implement conservation activities across the state. The BLM provided no analysis of this information nor justification of how the additional, proposed restrictions will protect

relevance and importance (R&I) values, which severely misinforms their determinations that additional ACECs are warranted.

Summary:

Protestors state that the BLM violated NEPA, the Wyoming Environmental Quality Act, the Clean Water Act, and the Safe Drinking Water Act by failing to adequately address comments and provide substantive responses to the Draft EIS, which identified inaccurate information or flawed analysis, instead directing commenters to sections of the Draft EIS in response to issues raised. As a result, protestors also claim that the BLM failed to provide an adequate rationale for designating additional ACECs and was inconsistent with regulation by not acknowledging the regulatory authority of or coordinating with WDEQ/WQD.

Protestors also stated that the BLM violated Wyoming Water Quality Rules and created the potential for noncompliance with WDEQ/WQD requirements by revising Management Action 1303.

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 all public comments submitted on the Draft RSFO RMP/EIS. The BLM complied with 40 CFR 1503.4 by performing a detailed comment analysis that assessed and considered all substantive comments received. Appendix W of the RSFO PRMP/FEIS presents the BLM's responses to all substantive comments.

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 impact analysis, or factual corrections made as a result of public comment. The BLM's response also explains why certain public comments did not warrant further agency response.

The BLM's comment response process does not treat public comments as if they were a vote for a particular action. The comment response process ensures that every comment is considered at some point when preparing the RSFO PRMP/FEIS.

The BLM adequately consulted with cooperating agencies in the development of the RMP. See RSFO PRMP/FEIS Sections 5.1 and 5.2 regarding the BLM's consultation and coordination with cooperating agencies and other parties as well as public involvement in developing the RMP. See Section 1.4 for the Planning Criteria the BLM followed during the analysis of the RMP (RSFO PRMP/FEIS pp. 1-4 through 1-5), and Appendix E for a list of Federal laws, regulations, and policies that apply to the BLM during this process (RSFO PRMP/FEIS pp. E-1 through E-17). In addition, a range of alternatives has been provided for management of Water Resources in Management Actions 1300 through 1325 (RSFO PRMP/FEIS pp. 2-8 through 2-12). Management Action 1303 under the PRMP does include language stating, "Guidelines described in the Wyoming Water Quality Rules and Regulations would also be applied, as necessary" (p. 2-8). An analysis of impacts for implementing the management actions in each alternative is found in RSFO PRMP/FEIS Section 4.5 (pp. 4-19 through 4-25) and Appendix U, Section 4.5 (pp. U-18 through U-27). Section 4.2.2 of the PRMP/FEIS discloses the unavailability of data including incomplete hydrogeologic information for the planning area (p. 4-2). The BLM notes that as a result of these missing data some of the impacts that result from the proposed management are projected in qualitative terms and subsequent project-level analyses will provide the opportunity to collect and examine site-specific inventory data necessary for determining the appropriate application of the RMP-level guidance (RSFO PRMP/FEIS p. 4-2). Additionally, as described in Section 5.1.1, the BLM worked in conjunction with WDEQ as a

cooperating agency to conduct impact analysis for water resources in the RSFO PRMP/FEIS. The cooperating agencies were formally invited to participate in developing the alternatives and to provide data and other information relative to their disciplines throughout the RMP development process. The planning criteria in Chapter 1, Section 1.4 (pp. 1-4 through 1-5), state, “the Wyoming Constitution defines that all natural waters within the boundaries of the state are declared to be the property of the State and the Wyoming State Engineer’s Office is charged with the regulation and administration of the water resources in Wyoming” (RSFO PRMP/FEIS p. 1-5). The BLM has no specific regulatory authority related to use of water or enforcement of water quality laws. The RSFO PRMP/FEIS makes no decisions regarding water rights.

Section 202(c)(3) of FLPMA requires that the BLM give priority to the designation and protection of ACECs in the development and revision of land use plans (43 U.S.C. 1712(c)(3)). Please see the protest response under the *ACEC Designation* section earlier in this report for a full description of the BLM’s authority to designate and provide management direction for designated ACECs and how they are managed and analyzed in the RSFO PRMP/FEIS under each alternative.

The BLM adequately responded to public comments on the Draft RMP/EIS. Accordingly, this protest issue is denied.

Section 368 Energy Corridors

The Wilderness Society

Julia Stuble

Issue Excerpt Text: BLM violated the Settlement Agreement by relying on outdated baseline data for Section 368 energy corridors within the RSFO. Again, in response to our prior comments urging BLM to consider its recommendations in the 2022 Energy Corridor Report as required by the 2012 Settlement Agreement, BLM points to the AMS, which “addresses data age,” as set forth in the Executive Summary of the Final EIS.¹¹² Turning to the Executive Summary, the Final EIS states that the AMS was completed in August 2013—over eleven years ago—and that the baseline data therein remains “accurate” and “adequate to compare conditions and differentiate resource impacts among the alternatives.”¹¹³ BLM therefore kept most of the data “static for comparative analysis purposes,” except it updated data concerning air quality emissions and reasonably foreseeable development “in response to changing conditions.”¹¹⁴ BLM’s response not only ignores the updated information and recommendations in the 2022 Energy Corridor Report and the extensive data the agencies gathered when conducting the regional corridor reviews, it also directly contravenes the Settlement Agreement requiring BLM to consider the information and recommendations in future land use planning. The Settlement Agreement, for example, states that the final recommendations “will be considered for implementation” during BLM land use planning¹¹⁵ and requires BLM to identify a responsible official who will “ensure that these recommendations are considered.”¹¹⁶ Failure to comply with these requirements renders meaningless the requirements agreed to by BLM in the Settlement Agreement when the agency previously faced litigation over Section 368 energy corridors.

Summary:

Protestors stated that the BLM violated the 2012 Settlement Agreement by relying on outdated baseline data for Energy Policy Act Section 368 energy corridors and ignoring updated information and recommendations in the 2022 Energy Corridor Report.

Response:

As described in Chapter 1 of the RSFO PRMP/FEIS, “the Energy Policy Act of 2005, Section 368, directed that the BLM participate in an interagency effort to identify, evaluate, and ultimately establish ROW corridors to accommodate infrastructure that transports forms of energy. Energy-related infrastructure could include natural gas pipelines, high-voltage electrical transmission lines, and similar developments. This RMP is amended to incorporate guidance and decisions made for management of the energy corridors established within the planning area, as identified in the 2009 Approved RMP Amendment/Record of Decision for Designation of Energy Corridors on Bureau of Land Management Administered Lands in the 11 Western States” (p. 1-6). When authoring land use plans, the BLM must consider the siting principles outlined in the Energy Policy Act and ensure that the planning process meets the requirements specified in Section 368 of the Energy Policy Act.

Management Actions 6200 through 6210 in RSFO PRMP/FEIS Chapter 2 (pp. 2-70 through 2-71) establish management for ROW corridors. Per these management actions, the RSFO planning area is open to the consideration of granting ROWs with the exception of defined exclusion and avoidance areas under each alternative, in compliance with Section 368 of the Energy Policy Act. ROWs and avoidance areas under each alternative are described Appendix V, Table 2-10 (pp. V-24 through V-28) and shown on Map 2-26 through Map 2-30 (RSFO PRMP/FEIS Volume 1, PDF pp. 403 through 407). Also, Management Action 6206 (RSFO PRMP/FEIS p. 2-71) retains the preferred corridors identified in the 2009 West-Wide Energy Corridor Approved RMP Amendment/ROD under all alternatives and Management Action 6210 (RSFO PRMP/FEIS p. 2-71) designates a new ROW corridor for the Wyoming Pipeline Corridor Initiative Project under each alternative, in compliance with Section 368 of the Energy Policy Act.

The BLM complied with the requirements of Section 368 of the Energy Policy Act in the RSFO PRMP/FEIS. Accordingly, this protest issue is denied.

Taylor Grazing Act

Little Sandy Grazing Association

Ken Moon

Issue Excerpt Text: Second, the special designations that blanket our allotments are in violation of the Taylor Grazing Act and the Public Rangeland Improvement Act. Because our allotments are in TGA grazing districts, they have been deemed as “chiefly valuable for grazing.” This means that grazing is the primary purpose of the land. We understand that FLPMA authorizes ACECs and that these special designations themselves may not necessarily be unlawful, however, the special designations that blanket our allotments, as currently written, would hinder the land’s grazing purpose and stifle range improvement projects. We encourage the BLM to narrowly tailor the management actions related to these special designations and specifically allow for grazing activities to continue in the way they always have.

Summary:

Protestors stated that the BLM’s special designations are inconsistent with the Taylor Grazing Act (TGA) and the Public Rangeland Improvement Act. Additionally, the proposed ACEC designations violate FLPMA’s multiple-use mandate by effectively rendering vast areas of public land inaccessible for uses such as grazing.

Response:

FLPMA grants the Secretary of the Interior the authority to make land use planning decisions, taking into consideration multiple use and sustained yield, ACECs, present and potential uses of the land, relative scarcity of values, and long-term and short-term benefits, among other resource values (43 U.S.C. 1711 Section 201(a)). 43 CFR 4100.0-8 provides that the BLM shall manage livestock grazing on public lands in accordance with applicable land use plans. Furthermore, the BLM may designate lands as “available” or “unavailable” for livestock grazing through the land use planning process (BLM Handbook H-1601-1, Appendix C).

Although lands have been identified as “chiefly valuable for grazing” per the TGA for purposes of establishing grazing districts within the public domain (see 43 U.S.C. 315), this does not negate the BLM’s authority or responsibility to manage those lands to achieve resource condition goals and objectives under the principals of multiple use and sustained yield as required by FLPMA and its implementing regulations. Actions taken under land use plans may include making some or all of the land within grazing districts unavailable for grazing during the life of the plan as well as imposing grazing use restrictions, limitations, or other grazing management–related actions intended to achieve such goals and objectives.

The TGA, the Public Rangeland Improvement Act, and FLPMA’s multiple-use mandate for public lands collectively aim to balance the needs of the livestock industry with the preservation and sustainable use of public rangelands. The BLM is not prohibited by any of these laws from adjusting the allocation of public lands for grazing or designating these lands as ACECs.

The BLM developed a reasonable range of alternatives that meets the purpose and need of the RSFO PRMP/FEIS regarding balancing livestock grazing access with environmental protection through ACECs. See Chapter 2 Management Actions 7400 through 7570 (RSFO PRMP/FEIS pp. 2-108 through 2-132) for a full range of alternatives related to ACECs. Pursuant to FLPMA Section 103(a), an ACEC is defined as an area “within public 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 safety from natural hazards.” While an ACEC may emphasize one or more unique resources, other existing multiple-use management can continue within an ACEC, provided the uses do not impair the values for which the ACEC was established. The potential impacts of ACEC designations and management under each alternative are provided within the *Livestock Grazing* sections in Chapter 4 (RSFO PRMP/FEIS pp. 4-105 through 4-110) and Appendix U (pp. U-110 through U-116).

RSFO PRMP/FEIS Section 1.4, *Planning Criteria*, states constraints or ground rules used to develop, guide, and direct the planning effort based on laws and regulations; guidance that the BLM Wyoming State Director provides; results of consultation and coordination with the public, other agencies, governmental entities, and Native American Tribes; and analysis of information pertinent to the planning area, public input, and professional judgment. The alternatives of the RSFO PRMP/FEIS represent reasonable approaches to managing resources and activities consistent with law, regulation, and policy.

The BLM adequately considered the balance of livestock grazing alongside ACECs when developing the RSFO PRMP/FEIS in full compliance with the TGA, the Public Rangeland Improvement Act, and FLPMA. Accordingly, this protest issue is denied.