



May 11, 2015

*Via Federal Express*

Bureau of Land Management  
Director (210)  
Attention: Protest Coordinator  
20 M Street SE, Room 2134LM  
Washington, D.C. 20003

*Via U.S. Mail*

Bureau of Land Management  
Director (210)  
Attention: Protest Coordinator  
P.O. Box 71383  
Washington, D.C. 20024-1383

**RE: Protest of the Grand Junction Proposed Resource Management Plan and Final Environmental Impact Statement**

Dear BLM Director Kornze:

Western Energy Alliance and West Slope Colorado Oil and Gas Association (WSCOGA) submit this protest to the proposed Grand Junction Proposed Resource Management Plan Amendment and Final Environmental Impact Statement (PRMP/FEIS) pursuant to 43 C.F.R. §1610.5-2.

Western Energy Alliance represents over 450 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. WSCOGA is a member-based organization focused on promoting the development of natural gas and oil resources in Northwest Colorado. Members of both Western Energy Alliance and WSCOGA (the associations) are committed to developing the significant oil and natural gas resources within the Grand Junction planning area in an environmentally responsible manner. The associations have a vested interest in the decisions made by the Bureau of Land Management (BLM) for the planning area that affect existing and future leases as well as exploration and development activities. The associations have standing

because they participated in the Grand Junction draft RMP/EIS process, and provided information to BLM in a comment letter dated June 24, 2013.

The associations support BLM's planning efforts to balance multiple and often competing interests in the Grand Junction planning area in accordance with the Federal Land Policy and Management Act (FLPMA). However, we have serious concerns that the PRMP/FEIS will render it nearly impossible to develop oil and natural gas leases in the planning area. BLM has clearly violated the Energy Policy Act of 2005 (EPA 2005) that requires it to protect natural resource values with the least restrictive stipulations possible.

We are also concerned that BLM will not have the manpower or expertise to enforce and regulate the numerous restrictions it has proposed. The onerous restrictions, vast discretion given BLM, and the environment of uncertainty will significantly impede investment of the resources necessary to develop the oil and natural gas potential in the Grand Junction Planning Area. In addition, existing investments will likely lose considerable value because BLM proposes to apply new restrictions to existing leases, which will prevent operators from meaningfully exercising their valid existing rights.

Western Energy Alliance protests five components of the PRMP/FEIS: (1) Violation of valid existing rights; (2) lack of justification for excessive restrictions; (3) the Shale Ridges and Canyons Master Leasing Plan (MLP); (4) inappropriate regulation of air emissions; and (5) unjustified lands with wilderness characteristics.

#### **Statement of Reasons as to Error in the PRMP**

1. Valid Existing Lease Rights: The PRMP stands to impede lessees from exercising their valid existing rights, particularly through the imposition of overly restrictive stipulations and Conditions of Approval (COA). FLPMA requires BLM to ensure that valid existing lease rights are unequivocally protected. In the PRMP, however, BLM proposes new onerous lease stipulations to be attached to the new leases, and clearly intends to require the terms of the stipulations as COAs on valid existing leases during the permitting process, including no-surface occupancy (NSO), controlled surface use (CSU), and timing limitations (TL).

BLM makes it clear that timing limitations will be imposed on all oil and natural gas activities within the Grand Junction Field Office regardless of site-specific analysis, and that waivers, exceptions, and modifications will only be granted subject to new disturbance thresholds that did not exist at the time the leases were issued. Such a result is not permissible; as explicitly stated in FLPMA, "All actions...under this Act shall be subject to valid existing rights." The statute does not leave any room whatsoever for discretionary actions that would be contrary to existing terms and stipulations.

The associations protest BLM's intention to disregard valid existing rights and instead apply NSO, CSU and TL stipulations as COAs on valid existing rights. BLM must respect the

contracts it has already entered into with members of the oil and gas industry through its issuance of leases, and must clarify in the Record of Decision that it will honor these lease rights and not unlawfully attempt to apply burdensome stipulations as COAs.

2. Lack of Justification for Excessive Restrictions: Pursuant to the EAct 2005, the stipulations for oil and natural gas leases within the Grand Junction PRMP/FEIS should not be onerous or more restrictive than necessary. In the PRMP, however, BLM has not provided justification for imposing prohibitive NSO and CSU stipulations. In fact, Preferred Alternative B proposes to apply 670,300 acres of land with NSO stipulations and 642,400 acres of land with CSU stipulations. An additional 526,400 acres are proposed for TL stipulations. While many of these lands overlap, BLM has clearly added overly burdensome restrictions on access to oil and gas resources.

Section 363 of EAct 2005 requires the Secretary of the Interior and the Secretary of Agriculture to enter into a Memorandum of Understanding regarding oil and natural gas leasing and to ensure that lease stipulations are applied consistently, coordinated between agencies, and “only as restrictive as necessary to protect the resources for which the stipulations are applied.” Here, however, BLM instead proposes to adopt stipulations that are far more restrictive when compared to existing management.

Furthermore, the PRMP removes 295,600 acres from oil and natural gas leasing, an increase of almost 50% over the draft RMP. BLM has failed to explain how this dramatic increase comports with the EAct 2005, and should revise the PRMP accordingly.

BLM is required, under the National Environmental Policy Act (NEPA), to use high quality data and disclose the methodology used in analyzing alternatives and reaching land use management decisions. Here, however, BLM fails to utilize scientifically valid and supportable information to justify and substantiate the many onerous, and in some cases overlapping, restrictions it attempts to place on oil and gas development, especially on valid existing oil and gas leases. Further, BLM fails to provide a sufficient economic analysis of its proposed restrictions, as required by FLPMA and NEPA.

The associations protest BLM’s use of overly burdensome restrictions on oil and gas development, and BLM’s failure to provide justification and analysis of least restrictive alternatives and socio-economic implications. BLM must revise its Preferred Alternative B proposals in the Record of Decision.

3. Shale Ridges and Canyons Master Leasing Plan: BLM includes a Master Leasing Plan (MLP) for the Shale Ridges and Canyons area that is 700,900 acres in size. The MLP proposes to preclude leasing of significant acreage in the area and would further restrict development throughout the South Shale Ridge by implementing phased leasing, NSO stipulations, and timing limitations.

The MLP process is duplicative of the RMP process and is an unnecessary tool and restriction on oil and gas leasing. BLM already provides sufficient environmental analysis of every oil and gas location prior to any development through the RMP process, decision to lease process, and site-specific NEPA analysis.

The proposed restrictions in the Shale Ridges and Canyons MLP are unnecessary, and the associations therefore protest the MLP's inclusion in this RMP process.

4. Inappropriate Regulation of Air Emissions: By adding the Comprehensive Air Resources Protection Protocol (CARPP) BLM will create unnecessary confusion and even contradicting requirements for air quality compliance. The State of Colorado, through delegation from the Environmental Protection Agency (EPA) to the Colorado Department of Public Health and Environment (CDPHE), has jurisdiction for air quality, not BLM. BLM lacks authority to impose controls and limitations beyond those adopted by the state and EPA.

BLM's one-year pre-development baseline monitoring requirement is onerous and goes beyond BLM's jurisdiction. BLM has not adequately justified why such extremely expensive and time-consuming monitoring is necessary given that the area in question is currently in attainment for all criteria pollutants. BLM also exceeds its regulatory purview by requiring specific projects to track emissions of criteria pollutants, Volatile Organic Compounds, Hazardous Air Pollutants and greenhouse gas emissions for use in potential enforcement activity.

Due to regional wind patterns moving from west to east, western Colorado, including the Grand Junction Field Office Planning Area, is substantially affected by pollution from all parts of the West Coast and Mexico. Criteria air-pollutant baseline levels must account for these external sources, and quantify their concurrent contribution before the baseline can be used to measure rates from present levels. BLM provides no indication of applying this local-versus-external source calibration to its air quality monitoring data.

The associations also protest BLM's requirements on glycol dehydrators and tank controls in Table 2-1, Record No. 11 which are clearly outside of its jurisdictional authority. CDPHE and EPA both have regulations in place that address glycol dehydrators and tanks. Furthermore, BLM cannot impose an emission threshold, as it conflicts with the state's regulatory primacy. Any emission reductions achieved on these below-threshold targets will be highly expensive and likely negated by emissions associated with additional construction, fuel and transportation activities required for compliance. This proposed rule would result in significant economic cost with no measurable environmental benefits.

The associations further protest the inclusion of emissions offsets as a "reasonable mitigation" strategy. This reference is vague, broad and was not included in the Draft RMP. BLM should remove any reference to emission offsets as a potentially required strategy. As BLM lacks jurisdiction on air quality, the PRMP must be revised accordingly.

5. Lands with Wilderness Characteristics: BLM designated 19,600 acres in the Bangs Canyon area as Land with Wilderness Characteristics (LWC) by cherry stemming certain roads in order to meet wilderness criteria. This land was not discussed in the DRMP, and the acreage nearly doubles the total amount of land designated as having wilderness characteristics. Additionally, the Maverick and Unaweep proposed LWC contain leased minerals.

Designation of these areas is not just a procedural action by the BLM—the designations result in burdensome restrictions on development of substantial portions of the Planning Area, including NSO, CSU, and TLS. Under Section 102 of FLPMA, Congress directed BLM to manage lands on a multiple-use basis to “...best meet the present and future needs of the American people” in a “combination of balanced and diverse resource uses,” including minerals development. Importantly, in Section 103(c) of FLPMA, Congress listed resources that BLM should take into account in allocating management; “wilderness characteristics” is not included as such a resource. On the other hand, mineral development is a “principal or major use” of public lands under FLPMA.

BLM must recognize that there are statutory limitations to managing lands for wilderness characteristics, including its multiple-use mandate. Where lands contain valid leases and other attributes making them unsuitable for management for wilderness characteristics, BLM cannot manage them as such. The associations protest BLM’s proposal to manage the Bangs Canyon, Unaweep and Maverick lands for wilderness characteristics.

In sum, the associations protest BLM’s overreach and disregard of its statutory and regulatory duties to recognize valid existing leases and provide least restrictive alternatives. Further, the associations protest inclusion of the Shale Ridges and Canyons MLP, inclusion of CARPP and other air quality controls, and proposal to manage new lands for wilderness characteristics. The PRMP should be revised and the Record of Decision designed to provide flexibility for BLM and certainty for oil and gas developers.

Thank you for considering these points of protest. The associations welcome the opportunity to meet with BLM to discuss and negotiate a potential resolution to one or more of the issues presented in this protest. Kathleen Sgamma of Western Energy Alliance can be reached at 303-623-0987, and David Ludlam of WSCOGA can be reached at 970-433-2178.

Sincerely,

Kathleen M. Sgamma  
Western Energy Alliance



David Ludlam  
West Slope COGA

cc: Ruth Welch, BLM Colorado State Director