



April 18, 2014

U.S. Department of the Interior  
Bureau of Land Management, Director (210)  
Attn: Protest Coordinator  
P.O. Box 71383  
Washington, D.C. 20024-1383

**RE: Protest of Decision in the Kremmling Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS)**

Dear Protest Coordinator:

Western Energy Alliance submits this protest to the proposed Kremmling RMP/FEIS pursuant to 43 C.F.R. §1610.5-2.

Western Energy Alliance represents over 480 member companies engaged in all aspects of environmentally responsible oil and natural gas exploration and production in Colorado and across the West. Our members are committed to developing the significant oil and natural gas resources on federal lands, including those within the Kremmling planning area. Western Energy Alliance and its members have a vested interest in the decisions made by the BLM for the planning area that affect existing and future leases as well as exploration and development activities. Western Energy Alliance has standing because it has participated in the Kremmling RMP/EIS process, and provided information to BLM in a comment letter dated January 17, 2012.

Western Energy Alliance supports BLM's planning efforts to balance multiple and often competing interests in the Kremmling planning area in accordance with the Federal Land Policy and Management Act (FLPMA). However, the right balance of resource management has not been achieved with the PRMP, nor does it rigorously protect valid existing oil and natural gas lease rights.

Western Energy Alliance protests three components of the PRMP/FEIS: (1) Excessive closures to and restrictions on future oil and natural gas leasing, exploration, and production; (2) failure to adequately recognize valid existing lease rights; and (3) failure to adequately analyzed the socio-economic impacts that will result from land closures and restrictions on oil and natural gas activities.

**Statement of Reasons as to Error in the State Director's Decision**

1. Excessive Closures to and Restrictions of Future Oil and Natural Gas Leasing, Exploration, and Production: In the comment letter dated January 17, 2012, Western

Energy Alliance identified the amount of acreage proposed for closure in the Preferred Alternative as excessive and lacking in scientific justification. Rather than provide adequate rationale for these proposed closures, BLM instead chose to double down and raise the acreage closed to leasing from 34,800 in the Preferred Alternative to 63,200 in the Proposed Plan, an increase of 82%. The Proposed Plan's closures represent an increase of 496% over current management. This excessive increase in the acreage closed to oil and natural gas leasing is contrary to BLM's multiple use mandate as delineated in FLPMA.

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.<sup>1</sup> BLM's reasons for the proposed closures include Lands with Wilderness Characteristics, Wilderness Study Areas (WSA), and Special Recreation Management Areas (SRMA). Importantly, in Section 103(c) of FLPMA, Congress listed resources that BLM should take into account in allocating management, and "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. 43 U.S.C. § 1702(l).<sup>2</sup> Recreation is identified as a "principle or major use," but BLM fails to explain how the two uses are mutually exclusive of one another, and how closure of these areas is therefore justified. Congress further emphasized the importance of minerals development by declaring that public lands be managed "in a manner which recognizes the Nation's need for domestic sources of minerals."<sup>3</sup>

In the comment letter, Western Energy Alliance identified the proposed application of major and moderate constraints (No Surface Occupancy, or NSO, and Controlled Surface Use, or CSU) to 744,200 acres as excessive and lacking in scientific justification, as it represented a 171% increase over current management. As with closures to leasing, rather than provide sufficient justification for these restrictions, BLM instead increased the level of major and moderate restrictions even further, to 797,500 acres, or 190% over current management. The Energy Policy Act of 2005 explicitly states that stipulations applied to oil and natural gas leases be "only as restrictive as necessary to protect the resource for which the stipulations are applied."<sup>4</sup> BLM has failed to explain how this dramatic increase comports with this statutory mandate.

**2. Failure to Adequately Recognize Valid Existing Lease Rights:** In the comment letter, Western Energy Alliance expressed concern that the preferred alternative would impede the ability of lessees to exercise their valid existing rights, particularly through the imposition of overly restrictive stipulations and Conditions of Approval (COA). BLM was asked to ensure that valid existing lease rights were unequivocally protected. In the Proposed Plan, while BLM did explicitly state that any new lease stipulations could only be applied to new leases, it did not make such a differentiation for COAs, and lists several instances in which severe restrictions, including prohibitions on surface occupancy, may be

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<sup>1</sup> 43 U.S.C. § 1702 (c)

<sup>2</sup> 43 U.S.C. § 1702 (l)

<sup>3</sup> 43 U.S.C. § 1701 (a)(12)

<sup>4</sup> 42 U.S.C. § 15922 (b)(3)(C)

applied to existing leases. BLM cannot impose COAs that are inconsistent with existing lease terms and stipulations. As explicitly stated in FLPMA, "All actions...under this Act shall be subject to valid existing rights."<sup>5</sup> The statute does not leave any room whatsoever for discretionary actions that would be contrary to existing terms and stipulations. As it does not adequately protect valid existing rights, Western Energy Alliance protests the decision accordingly.

3. Failure to Adequately Analyze the Socio-Economic Impacts that Result from Land Closures and Restrictions on Oil and Natural Gas Activities: In the comment letter, Western Energy Alliance indicated that the Draft RMP did not adequately quantify the socio-economic impact of oil and natural gas activities in the planning area, the state, and the nation, nor did it analyze the negative impact that would result from the closure of land and restrictions on future development. The PRMP makes only fleeting remarks on the importance of oil and natural gas revenues to the state, but offers no specifics, makes no attempt to quantify the negative effects of increased closures and restrictions, and underestimates the current and potential positive socio-economic impacts of oil and natural gas activities. BLM's analysis credits the industry with only two jobs and \$81,000 in wages for the entire planning area, and does not consider potential future development of the Niobrara formation in the planning area. The analysis is too narrow to inform decision making and does not consider the fact that development of the Niobara has created jobs and economic growth in other areas of Colorado. The positive socio-economic impacts of the oil and natural gas industry have been significantly understated, and that negative impacts to future development resulting from the proposed management decision have been unduly omitted.

Thank you for considering these points of protest. Please feel free to contact me at (303) 623-0987.

Sincerely,



Kathleen M. Sgamma  
Vice President of Government and Public Affairs

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<sup>5</sup> 43 U.S.C. § 1701 (note) h