PUBLIC LANDS ADVOCACY

WESTERN ENERGY ALLIANCE

COLORADO OIL & GAS ASSOCIATION
WEST SLOPE

June 24, 2013

Collin Ewing
BLM – GJFO RMP
2815 H Road
Grand Junction, CO 81506
VIA Email: gjfo_rmp@blm.gov

RE: DRAFT RESOURCE MANAGEMENT PLAN/ENVIRONMENTAL IMPACT STATEMENT FOR THE GRAND JUNCTION FIELD OFFICE

Mr. Ewing:

On behalf of Public Lands Advocacy, Western Energy Alliance and West Slope Colorado Oil and Gas Association, following are comments on the Draft Grand Junction RMP/EIS. The signatories to these comments are non-profit trade groups who represent the many facets of the petroleum industry. Our member companies have valid existing leases, current oil and gas production, and plans for future leasing, exploration, and production activities in the areas that will be directly impacted by the proposed decisions in the Draft Grand Junction RMP.

Given the fact that BLM is reluctant to provide hard copies of the DEIS documents, it is important for the Bureau to provide its management proposals and supporting data and analyses in a more clear and easily accessible format for the general public to review. For example, with respect to Chapter 2 and Table 2-2, BLM omitted explicit information related to current management. Instead, Table 2-2 refers the reviewer to the maps in Appendix A, which still do not provide the information necessary to allow for full evaluation of BLM's proposal. We also recommend that future documents provide separate files for each appendix to facilitate easy access.

THE PLANNING AREA HOLDS IMPORTANT NATURAL GAS RESOURCES

The Piceance Basin contains one of the nation's most significant reservoirs of natural gas. According to the Energy Information Administration (EIA), 10 of the Nation's 100 largest natural gas fields and 3 of its 100 largest oil fields are found in Colorado. Even more compelling, the Piceance Basin contains 5 of the top 50 natural gas fields in the United States in proven reserves. While it has been stated the Piceance Basin is likely to see 12 to 15 more years of continued gas development from known, proven reservoirs, and production is expected to last for 40 to 50 years beyond that. Located within the Piceance Basin, the Grand Junction Field Office (GJFO) recognizes that the planning area has many areas with considerable potential for future oil and gas development.

Of the 954 conventional wells spud within the GJFO since 1998, the DEIS acknowledges in the Reasonably Foreseeable Development Scenario (RFD) that these wells have had a 96 percent success ratio as natural gas wells. The RFD also points out that there are currently 40 active conventional oil and gas unit agreement areas that lie wholly within the GJFO, while there are five active units with lands partially within the GJFO, but administered by other BLM Field Offices. However, the planning area also contains development potential for coalbed natural gas and oil shale reserves. While development of these resources has yet to occur, the opportunities for future development must not be curtailed by BLM.

We are concerned that BLM intends to limit its management options to those that are intended to encumber oil and gas development throughout the planning area, despite the fact that most of the area is currently under oil and gas lease. BLM's new management strategy will compromise industry's ability to develop the Piceance Basin because it dismisses advances in drilling and production techniques in favor of overregulation and duplication of state and federal regulatory programs. The removal of vast areas of land from leasing with standard or other reasonable stipulations will significantly restrict regional earnings, jobs, and tax revenue.

PLANNING ISSUES

Chapter 1 – Planning Issues, No. 2 - Energy Development; "*Which areas should be open to oil and gas leasing, coal mining, and uranium development, and what restrictions should be employed to protect natural and cultural resources and minimize user conflicts*?"

COMMENT: Given the fluid mineral activity within the GJFO and the importance of the planning area to the oil and natural gas industry, we support BLM's recognition that these resources should be a key factor in the planning process. However, as identified, the Energy Development Issue focuses only on the need to protect other resources values rather than ensuring oil and gas resources are treated with equal importance. PLA's 2009 scoping letter called for oil and natural gas resources to be fully considered during this planning process. Specifically, PLA requested the following issues be included in the planning process:

- Management options that would protect or enhance opportunities to explore for and develop oil and gas resources
- Management options for surface resource management that are compatible with oil and gas resource management objectives
- Reasonable mitigation measures designed to limit or avoid impacts to surface resources as a means to lessen restrictions on access to public lands for leasing
- Lack of oil and gas resource potential or current industry interest will not be used as a basis for closing lands or imposing constraints on exploration and development activities
- Socio-economic considerations and benefits from oil and gas activities will be included
- Recognition and protection of Valid Existing Lease Rights

Since it is obvious that oil and natural gas exploration and development are significant activities which take place within the GJFO, we ask that BLM fully explain in its response to comments how the agency arrived at its decision to ignore the broader issues raised by industry during the scoping phase. We are

concerned that as written, this issue led to the development of the following noncommittal objective for oil and gas resources as presented in Table 2-2 in Chapter 2, "*Facilitate orderly, economic, and environmentally sound exploration and development of oil and gas and geothermal resources, using the best available technology*." This is a significant departure from the Objective stated for Alternative A, Current Management, "*Make federal oil and gas resources available for leasing, except where prohibited by law or where administrative action is justified in the national interest. Make public land available for economically and environmentally sound exploration and development projects. Allow geothermal leasing on a case-by-case basis, using the oil and gas leasing designations as a guide for geothermal resources."* The change in philosophy is profound and fails to take into account the requirements of the FLPMA as discussed below.

FEDERAL LAND POLICY AND MANAGEMENT ACT

FLPMA clearly defines mineral exploration and development as a principal use of public lands (43 USC § 1702.1) and requires BLM to foster and develop mineral activities rather than hampering such development through unreasonable, unjustifiable constraints. BLM's goal for managing oil and gas resources in the GJRMP is unsuccessful in meeting the requirements of FLPMA. Instead, it is clear that BLM has shifted its management focus from "*making public lands available for economically and environmentally sound exploration and development projects*" to merely facilitating development on public lands as described on page 2-179 of the DEIS. This shift in management is unmistakable in view of the sharp decrease of lands to be made available for lease under all action alternatives, particularly when coupled with the associated draconian increases in highly restrictive lease stipulations and conditions of approval (COA).

ENERGY POLICY ACT AND ENERGY POLICY AND CONSERVATION ACT – LEAST RESTRICTIVE STIPULATIONS

BLM ignores the fundamental requirements of the Energy Policy Act of 2005 (EPAct) and the Energy Policy and Conservation Act of 2000 (EPCA). Section 363 of the EPAct obligates federal land management agencies to ensure that lease stipulations are applied consistently and to ensure that the least restrictive stipulations are utilized to protect many of the resource values to be addressed. Under EPCA BLM is required to identify impediments to oil and gas development. Upon passage of these Acts, It was the intent of Congress that access to energy resources be improved. BLM recognized the intent of the both Phases I and II of the EPCA review when it issued Instruction Memorandum 2003-233, Integration of the EPCA Inventory Results, into the Land Use Planning Process. Consequently, BLM Field Offices are now required to review all current oil and gas lease stipulations to make sure their intent is clearly stated and that stipulations utilized are the least restrictive necessary to accomplish the desired protection. Moreover, the IM directs that stipulations not necessary to accomplish the desired resource protection be modified or dropped using the planning process.

BLM fails to comply with these laws and agency policy by proposing huge new impediments to domestic energy development, under all the action alternatives. We urge BLM to reconsider Alternatives B and C, in particular, in light of these policies as they pointedly require the BLM to decrease rather than increase impediments to domestic energy production.

VALID EXISTING RIGHTS

Page 2-179, Table 2-2 – "*BLM has the discretion to modify surface operations to change or add specific mitigation measures when supported by scientific analysis. All mitigation/conservation measures not already required as stipulations would be analyzed in a site-specific NEPA document, and be incorporated, as appropriate, into COAs of the permit, plan of development, and/or other use authorizations.*"

COMMENT: As stated, BLM's management strategy could severely compromise industry's ability to develop energy resources in the Piceance Basin through the imposition of highly restrictive conditions of approval on future permits. BLM must ensure that all conditions of approval placed on permits are consistent with the terms of the lease under which the permit is sought. For example, BLM cannot legally prohibit surface occupancy on a lease that does not contain a "*no surface occupancy*" stipulation.

Despite the claim above, BLM does not have unilateral discretion to add restrictive mitigation measures simply because it has completed a scientific analysis. In reality, BLM's authority to manage public lands conferred by the FLPMA is predicated upon the protection of valid existing rights. As such, BLM has no authority to impose COAs or other restrictions which deviate from or would alter existing lease agreements. Specifically, BLM cannot deprive operators of their rights to develop their leases in accordance with the terms under which they were issued through the imposition of new COAs or other measures. BLM is limited to negotiating with holders of valid existing rights to comply with newly developed restrictions outlined in the DEIS. It is necessary, therefore, for BLM to revise the planning documents to ensure consistency with FLPMA, the Mineral Leasing Act and BLM's own Planning Handbook, all which limit the BLM's authority to impose mitigation measures that exceed the terms and conditions of previously issued leases.

REASONABLY FORESEEABLE DEVELOPMENT (RFD)

Page 4-3**, "***The GJFO Reasonably Foreseeable Development Scenario (BLM 2012a), based on federal minerals and without any development restrictions, estimated that up to 2,108 horizontal shale wells and up to 1,831 combined conventional/directional wells could be drilled on BLM-administered mineral estate within the decision area during the planning period. The anticipated short-term disturbance for the drilling, road construction, and pipeline installation is approximately 2,700 acres for shale development and 6,700 acres for conventional development. The long-term disturbance associated with operation of the new producing exploratory and development wells would be approximately 1,046 acres for shale development and 2,092 acres for conventional development***."**

COMMENT: We note that this unconstrained look at the temporary disturbance, albeit somewhat long-term, of potential oil and gas development projects would impact only a limited amount of scattered acreage. Yet, BLM proposes to set permanently aside a block of 9,200 acres for its proposed Solar Energy Zone. We fully support the contribution to the nation's energy supply provided by solar projects. However, we object to BLM choosing one energy source over another, which is clearly evident in the DEIS. The nation needs all forms of energy and the natural gas resource that exists within the GJFO can be developed with minimal impact to the environment through the use of the state-of-the art

technologies available to the industry without the huge constraints proposed by BLM in Alternatives B, C, and even D.

It is apparent that the GJFO RFD was prepared without taking into account technological advances which allow operators to drill many more than the 8 wells per pad projected. Moreover, based upon current information, the initial surface disturbance of 12 acres per pad is overstated. We recommend that BLM revise its assumptions by taking into account recent technological advances along with up-to-date information on geologic potential before committing to the proposed highly restrictive management approach for oil and gas resources contained in both Alternatives B, preferred, and C.

We concur with BLM's acknowledgement that pad drilling cannot be expected for all wells due to differing complexities association with the wide range of geological features that exist within the planning area. However, BLM needs to recognize that horizontal drilling technology continues to advance and that it will likely be possible to reach previously inaccessible geologic targets. As such, it is our belief that potential development zones may change from low or moderate to moderate to high, the advent of which BLM must fully recognize and consider when planning for the GJFO so as not to unreasonably restrict future development opportunities.

Of additional concern is that BLM doesn't clearly explain the severe impacts each of the new management alternatives would have on current and future oil and gas leasing and development opportunities. For example, based upon the referenced geologic potential cited in the RFD, it was projected that nearly 4,000 wells could be drilled over the next 20 years. However, due to the constraints contained in Alternative B, only 780 wells are projected and it is as low as 220 wells under Alternatives A and C. It is unclear how BLM reached its conclusion that only 220 wells would be drilled under current management when it is projected, despite a host of additional severe restrictions on leasing and development, that nearly 800 wells could be drilled under the Preferred Alternative B. BLM needs to provide clarification of these issues in the final planning document.

ALTERNATIVES

BLM analyzed four alternatives in the RMP: Alternative A – Current Management, Alternative B – Preferred Management, Alternative C – Resource Protection, Alternative D – Maximum Resource Development. Each of these alternatives contain very highly restrictive elements compared to the unconstrained (standard lease terms on all lands excluding areas statutorily or administratively withdrawn from oil and gas leasing) Reasonably Foreseeable Development scenario which projects 9,116 wells on 2029 pads with long-term disturbance on 6,415 acres over the next 20 years.

Under Preferred Alternative B, BLM proposes to remove more than double the acreage for oil and gas leasing from 96,500 acres to 202,400 acres. Alternative C would reduce acreage available for leasing by more than 600 percent to 623,600 acres while Alternative D would essentially remain the same as current management. Lands available for lease with standard lease terms would drop from 524,500 acres under Alternative A; to 78, 800 acres under Alternative B; to 49,100 acres under Alternative C; and to 186,000 under the purported maximum development Alternative D, a drop of over 200 percent.

Moreover, BLM proposes to dramatically increase the use of restrictive stipulations on lands available for lease by over 300 percent, from 307,210 acres under Alternative A to 967,100 acres under Preferred Alternative B. The DEIS fully discloses the significant reduction of leasable acreage and the dramatic increase in the use of restrictive stipulations; however, it fails to justify the need for these increases and fails to demonstrate that it considered the use of the least restrictive stipulation needed to protect the resources. The DEIS also fails to adequately quantify the direct impacts these decisions would have on energy production, not to mention state, local and national revenue streams.

The DEIS contains no evidence that BLM complied with the requirements of EPCA by demonstrating that less restrictive measures were considered but found insufficient to protect the resources identified. A statement that there are resource values or uses that deserve protection does not justify the application of any or all restrictions. Discussion of the specific requirements of a resource to be safeguarded, along with a discussion of the perceived conflicts between it and oil and gas activities must also be clearly articulated. An examination of less restrictive measures must be a fundamental element of a balanced analysis and documented accordingly in the FEIS.

The limited range of alternatives evaluated in the DEIS clearly demonstrates a negative bias against oil and gas. Moreover, the analysis is flawed because it does not provide baseline data upon which to build rational management alternatives for leasing, exploration and development activities. Only by analyzing in detail an alternative that limits restrictions to those provided under standard lease terms and conditions would it be possible for BLM to effectively demonstrate that additional restrictions may be warranted. The biased assumptions contained in the DEIS demonstrated BLM's unwillingness to determine the types of restrictions that may truly be needed to protect the resource values in the study area. We recommend that BLM provide this information to the public in a new alternative in the FEIS.

Both Alternatives B and C inappropriately and excessively restrict fluid mineral development in the Planning Area. The removal of vast areas of land from leasing with standard stipulations would significantly restrict regional earnings, jobs, and tax revenue. We oppose any alternative that would reduce economic development, decrease domestic energy supplies, and harm the local tax base particularly in these difficult economic times.

AIR RESOURCES

Under the Preferred Alternative, BLM proposes numerous new requirements that are not required by either State or Federal regulations.

COMMENT: Imposition of most of these new requirements is excessive and will increase costs to operators which will in turn impact the timing and cost of proposed projects, which could result in wells not being drilled and projects delayed. These new requirements will also likely have a direct negative impact on the economies of the State of Colorado and its counties.

BLM’s proposed management clearly exceeds its authority by attempting to control air emissions and air quality despite the regulatory boundaries included in the Clean Air Act (CAA). Under the CAA, only the Environmental Protection Agency (EPA) and its delegates have sole authority for such regulation. In Colorado, the Colorado Department of Public Health and Environment (CDPHE) have been delegated by

EPA to regulate air emissions and visibility. In addition to CDPHE 2008(a) Air Quality Control Commission Regulations cited in the DEIS, the CDPHE, Air Quality Control Division, also issued Regulation No. 7, CCR 1001-9, which further controls air emissions from oil and gas operations statewide. The CAA specifically restricts the authority of land management agencies to determining whether emissions from a "*major emitting facility will have an adverse impact*" on areas designated as Class I. Since oil and gas facilities have not been classified as major emitting facilities, BLM has no authority to regulate such emissions.

CDPHE is also responsible for regulating visibility and regional haze through its State Implementation Plan (SIP). While BLM may participate in the development of the SIP, the regulatory authority clearly rests with CDPHE and not BLM. Consequently, all proposed management actions relating to air quality and visibility are unequivocally outside the jurisdiction of BLM and must be removed in their entirety from the RMP revision.

Appendix G – Air Resource Management Plan

In addition to exceeding its authority over air quality programs, BLM's ARM conflicts with the Memorandum of Understanding (MOU) entered into by the Departments of Agriculture and Interior along with the EPA regarding air quality analysis and mitigation on federal lands. Since this agreement was adopted on a national scale, we question BLM's attempt to establish a separate program for the GJFO. Clearly, the ARM must retain consistent with DOI's commitments in the MOU. As such, we recommend that BLM eliminate those sections of the ARM that exceed the elements provided for in the MOU.

Page G-1, Modification of the ARMP – "*This ARMP may be modified as necessary to comply with law, regulation, and policy and to address new information and changing circumstances." Changes to the goals, objectives or management actions set forth in the GJFO RMP/EIS would require maintenance or amendment of the RMP while changes to implementation, including modifying this ARMP, may be made without maintaining or amending the RMP*."

COMMENT: BLM's statement implies modifications may be made to the air resources management plan through plan maintenance without a RMP amendment or revision. This is contrary to the regulations at 43 C.F.R. 1600 which requires the agency to comply with both NEPA and FLPMA when making significant changes to a RMP.

Page G -4, Emissions Tracking – "*Within one year of signing the ROD for the GJFO Final RMP/EIS, the BLM will establish and implement a mechanism to track annual emissions of criteria pollutant and volatile organic compound emissions from BLM authorized oil and gas activities within the planning area…"*

COMMENT: The language in this section indicates BLM may attempt to limit oil and gas development to the same or similar level that has occurred over the last five years. First, we ask BLM to explain how is this proposal would be consistent with FLPMA and EPCA which requires the BLM to recognize the need for domestic minerals and remove impediments to their development? Second, BLM is well aware of the recent decline of oil and gas development in the area and we object to this low level of development being used as a baseline for future development.

Page G-8, Pre-Construction Air Monitoring – "*The BLM may require project proponents of oil and gas development proposals…to submit pre-construction air monitoring data from a site within or adjacent to the proposed development area...*"

COMMENT: We strenuously object to the proposal to require at least a year of baseline monitoring before new oil and gas projects may be approved. Upon what scientific basis is this excessive and onerous requirement based? Furthermore, it conflicts with the MOU referenced above in these comments and should be eliminated.

WATER RESOURCES

Under the Preferred Alternative, BLM indicates that the only way to meet its objective to "*Provide sufficient water quantity on BLM lands for multiple use management and functioning, healthy riparian, wetland, aquatic, and upland systems*," is to "*secure water rights for point sources on BLM lands from the State on springs/seeps and wells*" and to "*acquire private stream-side and river-side parcels from willing sellers that are contained within or adjacent to public land*."

Page 2-29, Alternative B – "*Secure adequate water rights for point sources on BLM lands from the State of Colorado on springs/seeps and wells necessary to preserve, protect, and enhance ecological diversity and sustainability within planning area watersheds. Uses for which BLM would apply for water rights include, but are not limited to, livestock, wildlife, watering, wildlife habitat, wild horses, recreation, and fire suppression."*

COMMENT: It is unclear why BLM believes it would need to secure water rights from the State or private individuals since the State of Colorado has regulatory primacy over water resources within the State. We are concerned that BLM acquisition of water rights would result in significantly less water for stock growers and ranchers who depend on these water sources for their livestock and that beneficial uses of produced water could be curtailed, requiring operators to expend additional capital for new, unnecessary facilities. Industry fully agrees that groundwater and drinking sources must be protected; however, adequate measures already exist through the State of Colorado's water quality standards, enforcement and remediation within the entire State. Therefore, we oppose these provisions and recommend that BLM eliminate this language from the planning documents and support the State of Colorado's ongoing efforts to acquire in-stream flows.

COMMENT: BLM also ignores the numerous existing federal and state laws in place to protect water resources and to ensure safe and responsible oil and gas development. These restrictions will significantly limit oil and gas development while providing no flexibility for project specific proposals that provide environmental benefits or minimize environmental impacts. For example, construction of pipelines within these areas may reduce truck traffic, but would not be allowed under BLM's preferred alternative.

Page 2-30, Alternative B – "*No Leasing: Watersheds. Close the Palisade and Grand Junction municipal watersheds to fluid mineral leasing and geophysical exploration*."

Page 2-30, Alternative B – "*Prohibit surface occupancy and other surface-disturbing activities in the Palisade and Grand Junction municipal watersheds*."

What is BLM's justification for its proposal to prohibit leasing in the Palisade and Grand Junction municipal watersheds? Existing Federal and state laws are sufficient to protect water resources within these watersheds and this requirement would present an additional layer of regulation inconsistent with existing law. It would be more appropriate for BLM to utilize Lease Notice-1, under which the lessee is required to implement special protective measures for water resources and to collaborate with municipalities and comply with applicable municipal watershed plans. BLM needs to provide adequate justification for its proposal. Moreover, the DEIS is inconsistent in that it contains both a no leasing designation and an NSO stipulation for the Grand Junction and Palisade municipal watersheds.

We also remind BLM that any NSO stipulations for that may be applicable for future leases may not be imposed on valid existing leases simply because a plan amendment has been prepared. Further, restrictions on surface-disturbing and disruptive activities that are inconsistent with original lease terms would abrogate valid existing lease rights.

Page 2-32; Appendix H-75 - the BLM proposes requiring use of "*green fracking fluids*" within Water Intake Zone 3. The BLM also includes a similar proposal for use of green fracking fluids as a Best Management Practice in Appendix H.

COMMENT: Numerous federal and state rules are already in place to ensure well integrity and groundwater protection. Requiring the use of certain chemicals in the completions process greatly limits an operator's ability to most effectively develop oil and gas resources. The requirement also may not be commercially viable. Therefore, we urge BLM to eliminate this proposal from the final planning documents.

Page 4-87, "*Under Alternative B, the BLM would implement specific actions related to protecting and monitoring water quality and quantity. These actions would maintain or improve water quality, natural stream morphologic conditions, sustainability of water resources (water quantity) (refer to Table 2-2), groundwater aquifer properties, and natural stream hydrographs*."

COMMENT: This statement is extremely broad and could have significant, unconsidered cost implications depending on BLM's water monitoring plan. It also suggests that BLM would have veto authority over water use related to oil and natural gas development, which could infringe on state water laws and have consequences for water rights holders in Colorado. Furthermore, we are opposed to the broad discretion for BLM to determine "*appropriate design features or conditions of approval*" in these circumstances. The Colorado Oil and Gas Conservation Commission (COGCC) has already developed and is enforcing water quality data collection measures. We recommend that BLM defer to the State of Colorado's water monitoring program.

RIGHTS-OF-WAY EXCLUSION/AVOIDANCE AREAS

Page 2-155, Alternative B - *Manage 204,200 acres as ROW exclusion areas*

Page 2-157, Alternative B - *Manage 740,900 acres as ROW avoidance areas*

COMMENT: We object that BLM's preferred alternative (Alternative B) proposes to restrict nearly 80 percent of its surface acreage from use as a right-of-way (ROW). Specifically, BLM proposes 204,200 acres as ROW Exclusion Areas and 740,900 acres as ROW Avoidance Areas, which is 945,100 acres out of the 1.2 million total surface acres managed by GJFO. In determining its ROW exclusion and avoidance areas, BLM includes everything from steep slopes to streams to wildlife areas without consideration of site-specific situations. BLM's proposal unnecessarily restricts future ROWs and will create serious impediments to oil and gas development by effectively preventing infrastructure improvements needed for transportation of oil and gas resources. BLM must recognize that fluid mineral pipelines, for example, create only short-term disturbance and are fully reclaimed within the parameters BLM requires once construction is completed. We recommend that BLM retain flexibility which would allow a right-of-way to be built in the event no reasonable alternative is found.

Page 2-160, Alternative B – *Manage 9,200 acres as Solar Energy Zones*

COMMENT: While we recognize the function of designating solar energy zones, we object that similar consideration has not been afforded other energy providers, such as the oil and gas industry. As previously stated, BLM must also recognize the need for infrastructure improvements associated with transportation of oil and gas resources. Why has BLM not considered establishing similar zones for oil and gas pipeline requirements?

Page 2-69, Alternative B – "*Identify the following as ROW exclusion areas: Within a 0.6-mile radius of sage-grouse leks."*

Page 2-69, Alternative B – "*Identify the following as ROW avoidance areas: Sage-grouse occupied habitat; and within a 4-mile radius of sage-grouse leks."*

COMMENT: The combination of ROW avoidance and exclusion areas for sage-grouse occupied habitat leks is excessive, unreasonable, and will unnecessarily encumber oil and gas development in the planning area. BLM failed to document the need for ROW avoidance and exclusion areas of this size in the DEIS with any scientific justification, nor have they shown that the needs of local Sage-grouse populations require these protections. Furthermore, given the topography of the planning, there is substantial acreage with 4 miles of a lek that is not sage-grouse habitat. We urge BLM to carefully reconsider its proposal to take such issues into account.

Page 4-206 – "*Siting ROWs along existing corridors does not reduce the potential for effects on cultural resources."*

COMMENT: The DEIS states that approximately 15% of the planning area has already been surveyed for cultural resources, much of it due to NHPA Sec. 106 compliance for oil and gas operations. If such is the case, existing corridors ought to have been surveyed for resources, and construction of infrastructure, i.e. pipelines would have led to site discovery as well. Following existing corridors in certain circumstances may prove more economical and expeditious, yet if BLM holds that doing so provides no added resource protection some benefit of this planning strategy will be unnecessarily removed.

FISH, WILDLIFE, PLANTS, AND SPECIAL STATUS SPECIES

The species habitat delineations in the DEIS far exceed those identified by the Colorado Division of Parks and Wildlife (CPW). What is BLM's justification for these discrepancies, particularly due to the fact that the State manages the species for which habitat is identified? In fact, in 2009 the Departments of Interior, Agriculture and Energy signed a Memorandum of Understanding (MOU) with the Western Governors' Association (WGA) in which the departments agreed to coordinate with states in the identification and uniform mapping of wildlife corridors and crucial habitat. We ask BLM to explain why this has not been performed for this RMP revision. Moreover, we can find no reasoning or justification for BLM's maps to differ from those used by the State.

Such discrepancies are problematic for operators who work on both State and private lands that may be adjacent to BLM public lands because two separate processes could be required for the same project in circumstances when projects cross jurisdictional boundaries. We strongly recommend that BLM work closely with State agencies to eliminate the discrepancies in wildlife data and spatial representations utilized by BLM in the draft planning documents. Moreover, in view of the MOU adopted by the BLM and the Colorado Department of Natural Resources (DNR), it is reasonable for the BLM to adopt many of the resource data developed by the DNR, especially when it does not encroach upon BLM's management jurisdiction over Federal lands.

Migratory Birds

Page 2-60, Alternative B – STIPULATION TL-3: Migratory Bird Habitat: "*Prohibit surface occupancy and surface-disturbing activities, including vegetation-altering projects, in migratory bird habitat during nesting season (May 15 to July 15 or as site-specific analysis dictates) when nesting birds are present*."

Page 2-60, Alternative C – STIPULATION TL-3: Migratory Bird Habitat: "*Prohibit surface occupancy and surface-disturbing activities, including vegetation-altering projects, in migratory bird habitat during nesting season (April 15 to July 31 or as site-specific analysis dictates) when nesting birds are present*."

COMMENT: What is BLM's justification for these stipulations, which appear to be designed to preclude all development activities within the entire GJFO during significant portions of each year? They are duplicative and unwarranted because migratory birds already receive full protection under the provisions of the Migratory Bird Treaty Act. Therefore, absent clear scientific documentation that they are truly needed, it is incumbent upon BLM to eliminate these unwarranted timing stipulations from the final planning documents.

Big Game

Page 2-82, Alternative B – STIPULATION TL-20: Big Game Winter Range - *"Prohibit surface occupancy and surface-disturbing activities from December 1 to May 1 to protect big game winter range as mapped by the CPW. Certain areas within big game winter range may be closed to foot, horse, motorized, and/or mechanized travel from December 1 to May 1*."

Page 2-85, Alternative B – STIPULATION TL-21: *Big Game Production Areas. "Prohibit activities, including motorized travel, in elk production areas from May 15 to June 15; in antelope production areas from April 15 to June 30; in Rocky Mountain bighorn sheep production areas from April 15 to June 30; in Moose production areas from April 15 to June 30; and in desert bighorn sheep production areas from February 1 to May 1.*

COMMENT: The restrictions on oil and gas development fail to correspond to the current status of big game populations in the planning area, particularly the health of elk and mule deer populations. Based upon the most recent Colorado Division of Parks and Wildlife (CPW) population estimates, an estimated 93,000 elk inhabit the planning area, roughly thirteen times the 1987 RMP goal of providing habitat for 2,950 elk in winter. Further, CPW estimates that there are 37,500 mule deer in the planning area which exceeds the 1987 RMP goal of providing habitat for 34,400 mule deer in winter. Nevertheless, BLM proposed to apply a number of clearly unwarranted restrictions in big game habitat, including production areas, winter range, and migration and movement corridors. Most notably, the Preferred Alternative prohibits surface occupancy on 474,500 acres of big game winter range for six months each year, from December 1 to May 1. Accordingly, the timing limitations, thresholds, and other restrictions on oil and gas development within big game habitats appear unnecessary, unreasonable, and unjustifiable. Therefore, we request BLM to explain and justify its proposed timing limitations for big game species before the final EIS is released.

Further, we object to the proposed timing stipulations under the Preferred Alternative, which would force operators to cease oil and gas operations during significant portions of the year and potentially shut-in production. Such a management strategy would create a boom-bust scenario, jeopardize stable employment opportunities provided by oil and gas production, and negatively impact the economies of local communities. Accordingly, we urge BLM to eliminate this proposed restriction in the final EIS.

BLM must also recognize that it cannot impose new timing restrictions on existing leases simply because a plan amendment has been prepared. As discussed previously in these comments, restrictions on surface-disturbing and disruptive activities cannot be enforced if they are inconsistent with the original terms of the lease and its associated valid existing rights.

In sum, we recommend that BLM reconsider its proposal to impose the proposed stipulations for big game and develop practical stipulations that respect valid existing lease rights and balance responsible multiple use-development with protection and conservation of species and their the habitat.

Page 2-84, Alternative B – *STIPULATION CSU-24: Deer and Elk Migration and Movement Corridors. "Apply CSU (site-specific relocation) restrictions to surface-disturbing activities within migration and movement corridors for deer and elk."*

COMMENT: BLM has failed to map these migration and movement corridors, specify their size and width, and define the conditions that constitute them. As a result, it is impossible to fully determine the impact these designations will have on future oil and gas operations in the planning area. BLM must identify, map, and define the resource values that must be present before designating migration and movement corridors prior to imposing CSU stipulations in those areas.

Gunnison Sage-Grouse

Page 2-70, Alternative B - "*No Leasing: Sage-grouse. Close all occupied Gunnison sage-grouse habitat (10,600 acres) to fluid mineral leasing and geophysical exploration*."

COMMENT: We object to BLM's proposal to close all federal mineral estate (10,600 acres) and private and state surface with federal mineral estate (12,200 acres) with occupied Gunnison sage-grouse habitat to future fluid mineral leasing and geophysical exploration. These closures are excessive and unjustified. While the US Fish and Wildlife Service (FWS) has proposed to list the Gunnison Sage-Grouse as endangered under the ESA, its decision is still pending. Nonetheless, even if the FWS ultimately determines that the species warrants protection under the ESA, that alone is not reason enough for BLM to completely close all federal mineral estate with occupied Gunnison Sage-Grouse to fluid mineral leasing and geophysical exploration because oil and gas leasing, exploration, and development in Gunnison Sage-Grouse habitat can be performed in a manner that avoids, minimizes, and mitigates impact to the species and its habitat. In addition, closing the species' habitat to future leasing and geophysical exploration could compromise operators' ability to complete ongoing projects either in or near habitat that could be responsibly executed under a Section VII consultation with FWS, should the species ultimately be listed under the ESA.

We also strongly object to the closing of geophysical exploration in Gunnison Sage-Grouse habitat on valid existing leases. We remind BLM that any closures for that may be applicable for future leases may not be imposed on valid existing leases simply because a plan revision has been prepared. Further, restrictions on surface-disturbing and disruptive activities, including the outright prohibition of geophysical exploration, that are inconsistent with the original lease terms may not be consistent with valid existing lease rights.

We strongly urge BLM to reconsider its proposal to close all Gunnison Sage-Grouse habitat to future fluid mineral leasing and geophysical exploration and develop practical stipulations that respect valid existing lease rights and balance responsible multiple use-development with protection and conservation of the species and its habitat.

Greater Sage-Grouse

Page 2-70, Alternative B – STIPULATION NSO-25: *Sage-grouse Leks, Nesting, and Early Brood-rearing Habitat. "Prohibit surface occupancy and surface-disturbing activities within 4 miles of an active lek or within sage-grouse nesting and early brood-rearing habitat*."

COMMENT: BLM's proposal to prohibit surface disturbing activities within four miles of sage-grouse leks, nesting, and early brood-rearing habitat year round is unfounded. Moreover, no scientific evidence has been presented which support the need for additional protections within four miles of a lek, nor has the need for year-round NSO stipulations in early brood-rearing habitat where seasonal restrictions have already been proven successful. In addition, there is substantial acreage within 4 miles of a lek that is not sage grouse habitat, but would nonetheless be designated as NSO. Clearly, these restrictions are excessive, unjustified, and are designed to impede development on valid existing leases in the planning area, and are far more onerous than other recently-revised RMPs across the West.

BLM must also map the right-of-way exclusion and avoidance areas, areas closed to leasing, and areas where timing and NSO stipulations will be applied for the protection of sage-grouse. Without these maps, we cannot adequately determine how future oil and gas development will be impacted by the proposed restrictions.

We appreciate the BLM's efforts to "*include sage-grouse habitat parameters from state sage-grouse conservation plans and appropriate local information in habitat restoration objectives*", if available (DEIS at 2-69). Nonetheless, it does not appear that elements of existing state or local conservation plans have been incorporated into the DRMP/EIS on any meaningful level. While we recognize the State of Colorado was revising its state sage-grouse conservation plan at the time the DEIS was being prepared, aspects of local plans, particularly those from the Garfield County Sage-Grouse Conservation Plan, Northwest Colorado Greater Sage-grouse Conservation Plan, and the Parachute-Piceance-Roan (PPR) Greater Sage-Grouse Conservation Plan should have been incorporated into the document on a more meaningful level. These plans represent the most recent, credible, and proximate understandings of the current state of the populations and habitat in the planning area and include recommended management practices that would be sufficient to address threats facing the species. Accordingly, these local plans must be a critical element of the RMP's management direction for sage-grouse.

Instead, BLM has elected to incorporate several recommended management restrictions from the BLM National Technical Team (NTT) Report (2011), including NSO-25, which prohibits surface occupancy and surface-disturbing activities within four miles of an active lek or within sage-grouse nesting and early brood-rearing habitat. This stipulation has not been derived from an actual assessment of the current state and threats to the species in the planning area or any accepted conservation measures that effectively preserve local populations of sage-grouse, nor is it based on local studies on the impact of surface activities on the species and habitat. It is, however, based on a "*one size fits all*" management prescription from the NTT Report that does not account for local plans, conditions, or effective mitigation practices.

Garfield County Commissioner Tom Jankovsky relayed these concerns to the House Committee on Natural Resources during his testimony on June 4, 2013. "*Our primary concern is that the policies the BLM is attempting to put in place do not fit our unique topography and will fail, destroy our local economy and create the need for litigation. The studies for the NTT Report were primarily from central Wyoming with miles of rolling sage brush while our topography and vegetation is quite unique characterized by high plateaus with sage brush at the ridge tops, steep drops to drainages and valley floors, with a patchwork of sage brush, conifer, aspen and pinion-juniper forests. As a result, conservation measures must adapt to the unique habitat through our local plan*."

We strongly object to the inclusion of NSO-25 and request that it be removed from the in the Final RMP/EIS. A four-mile buffer around leks and nesting and early brood-rearing habitat will preclude oil and gas development, grazing, mining and many other economically important activities on thousands of acres of the planning area, without a scientifically justified commensurate benefit to the species.

We also object to the proposed timing stipulations under the Preferred Alternative, which would force operators to cease oil and gas operations during significant portions of the year and potentially shut-in

production. Such a management strategy would create a boom-bust scenario, jeopardize stable employment opportunities provided by oil and gas production, and negatively impact the economies of local communities. Accordingly, we urge BLM to eliminate this proposed restriction in the final EIS.

We recognize that the BLM Northwest Colorado District Office is currently completing an EIS that considers and analyzes the Greater Sage-grouse which will subsequently amend the Grand Junction RMP. We plan to comment on that EIS and subsequent RMP amendments for greater sage-grouse, and will implore BLM to incorporate management guidance and restrictions from state and local plans, rather than recommended conservation measures and restrictions in the NTT report.

We strongly advise that BLM reconsider incorporating elements from the NTT report into its management prescriptions for Greater Sage-Grouse. Further, BLM must recognize in the planning document that protection measures for sage-grouse are subject to modification in accordance with BLM's subsequent amendment of the RMP to incorporate additional protection measures from a separate district-wide EIS for GSG management that is currently being developed by the Northwest Colorado BLM District Office.

Raptors

Page 2-66, Alternative B – STIPULATION NSO-23: *Golden Eagle Nest Sites. "Prohibit surface occupancy and surface-disturbing activities (beyond that which historically occurred in the area) within 0.25-mile of active golden eagle nest sites and associated alternate nests*."

Page 2-66, Alternative B – STIPULATION NSO-24: *Bald Eagle Nest Sites. "Prohibit surface occupancy and surface-disturbing activities (beyond that which historically occurred in the area) within 0.25-mile of active bald eagle nests*".

COMMENT: BLM intends to designate areas that are within 0.25 mile of the active nests of Bald and Golden eagles as NSO. The bald eagle was recently remove d from the threatened and endangered list, and BLM's proposed buffers significantly exceed the FWS's recommended restrictions for oil and gas activities around nests, which call for 200 meter (660 feet) buffers. Accordingly, these 0.25 mile buffers are unreasonable and have not been justified in the DRMP/EIS. FWS' NSO restrictions for special status eagles and raptors are adequate and should be relied upon by BLM for Bald and Golden Eagles. Accordingly, the buffers in the final RMP need to be modified to comport with the FWS' recommendation of 200 meters (660 feet) around active nests.

Threatened & Endangered Animal and Plant Species

Page 2-59, Alternative B – STIPULATION NSO-13: Current and Historically Occupied Habitat of Threatened, Endangered, Proposed, and Candidate Species. *"Prohibit surface occupancy and surface-disturbing activities to protect threatened, endangered, proposed, and candidate plants and animals from indirect impacts or loss of immediately adjacent suitable habitat. Maintain existing buffer distances where pre-existing disturbance exists. In undisturbed environments and ACECs, prohibit new disturbance within 200 meters (656 feet) of current and historically occupied and suitable habitat*."

COMMENT: BLM proposes to use the same NSO restrictions for plant and animal species listed under the ESA on those that are only candidate and proposed species in this NSO stipulation. Imposing the same restrictions for non-listed species as listed species is excessive, unwarranted and appears to rely on an unreasonable assumption that the FWS will ultimately decide to list certain species that have habitat in the planning area. In addition, BLM fails to specify which species would be subject to this stipulation. We are particularly troubled that species that have been proposed for listing may incur the same level of restrictions as those listed under the ESA, which sets a dangerous precedent at the RMP level.

We also object to NSO stipulations that would apply to both occupied and historically occupied plant habitat. We are unaware of provisions under the ESA that could result in BLM's proposal to prohibit surface disturbance in historically occupied habitat.

We strongly recommend that BLM remove this language from the final EIS and instead rely on management prescriptions that are based solely on the current status of species in the planning area, rather than categorically assigning the same management restrictions to both listed and non-listed species. Further, BLM must eliminate the restrictions proposed for special status species and craft restrictions for non-listed species that are less restrictive than those for listed species.

Page 2-59, Alternative B – STIPULATION NSO-12: ACECs. "*Prohibit surface occupancy and surface-disturbing activities in the following ACECs to protect threatened, proposed, candidate, and sensitive plants.*"

COMMENT: We are similarly concerned that BLM has used candidate and other non-listed species as the basis for the designation of ACECs, which sets a similarly dangerous precedent. See above comment.

Wildlife Emphasis Areas

Page 2-86, All Alternatives – "*An emphasis area is an area of high wildlife value and significance for wildlife species including but not limited to sage-grouse, pronghorn antelope, mule deer, elk, bighorn sheep, prairie dog, and kit fox. Fire rehabilitation efforts and vegetation treatments to improve land health and/or wildlife habitat are not considered ground disturbance, as described in the actions under each emphasis area below. Wildlife emphasis areas are not designations, but rather polygons where more management emphasis is placed on protection and enhancement of the wildlife resource.*"

COMMENT: BLM proposes to prohibit surface occupancy and surface-disturbing activities on 43,800 acres and apply CSU stipulations restrictions to surface-disturbing activities in wildlife emphasis areas on another 130,800 acres in "*wildlife emphasis areas*." While these areas may constitute the highest value wildlife habitat as ranked by BLM and CPW for multiple species, application of NSO and CSU stipulations to areas that provide habitat for multiple species simply because those habitat areas overlap is unprecedented in an RMP and would unreasonably prevent economic activity in the planning area. BLM has not justified the creation of these areas with any specific data. Further, no regulations exist under FLPMA, the BLM Land Use Handbook, or BLM Planning Regulations that recognizes the designation of these areas. Of equal importance is that many operators have existing lease rights in several of BLM's proposed Wildlife Emphasis Areas. The seasonal travel restrictions and road closed proposed in these

areas will result in the operators being unable to access current leases, federal units, and operations which would constitute an illegal taking of contractual and property rights. When developing the final planning documents, it must be clearly and unequivocally stated that BLM will not impose COAs or other restrictions on existing oil and leases within these areas.

BLM claims that "*wildlife emphasis areas*" are not designations. However, for nearly every identified area discussed in Chapter 2, BLM proposes the use of NSO and/or CSU stipulations. Of similar concern is that BLM fails to effectively explain how the lands with the 'polygons' described in Chapter 2 will ultimately be managed. Has BLM fully analyzed the benefit to species juxtaposed with the impact on economic activities in the planning area that will result from the designation of wildlife emphasis areas? If not, we recommend such an analysis be completed before including them in the final planning documents.

Water Resources, Major River Corridors, and Special Status Fish

Page 2-27, Alternative B – STIPULATION NSO-1: Major River Corridors*. "Prohibit surface occupancy and surface-disturbing activities within stream channels, stream banks, and the area 0.25-mile either side of the ordinary high-water mark (bank-full stage) or within 100 meters (328 feet) of the 100-year floodplain (whichever area is greatest) of the Colorado, Gunnison, and Dolores Rivers*."

Page 2-27, Alternative B – STIPULATION CSU-1: Major River Corridors. *"Apply CSU (site-specific relocation) (Exhibit Colorado [CO]-28) restrictions from 0.25- to 0.5-mile landward from identified NSO buffer (0.25-mile from ordinary high water mark or within 100 meters [328 feet] of the 100-year floodplain, whichever is greatest) on either side of the Colorado, Gunnison, and Dolores Rivers*."

COMMENT: What is BLM's scientific justification for the proposed CSU and NSO stipulations around major river corridors? We are concerned that they are excessive and will unnecessarily preclude oil and natural gas development in the planning area and do not provide the needed flexibility for oil and gas activities to take place. While BLM declares that "*stipulations around wetland and riparian areas and major river corridors would reduce the likelihood of erosion and sedimentation of waterways*" (Page 4-146), BLM has omitted any scientific evidence which justifies the actual size of those buffers. In addition, why are the proposed buffers around major river corridors dramatically larger than those for hydrologic features and riparian areas, where BLM would apply CSU restrictions within 152 meters (500 feet) from the edge of any hydrologic feature including perennial and intermittent streams, wetlands (including fens), lakes, springs, seeps, and riparian areas? Historic buffers have been limited to 300 to 500 feet, which has been proven a reliable mitigation measure. Without scientific evidence proving its need, this new restriction is unwarranted and should be eliminated from the FEIS. We are also concerned that the requirements for major river corridors are inconsistent with existing state and federal regulations.

Page 2-29, Alternative B – "*Acquire private stream-side and river-side parcels from willing sellers that are contained within or adjacent to public land (i.e., West, East, Roan, and Carr Creeks, and the Colorado, Gunnison, and Dolores Rivers) and display important riparian values.*"

COMMENT: What is BLM's rationale for considering the acquisition of private mineral and surface estate in stream-side and river-side areas? Is it a strategy to apply applicable management provisions and lease notices and stipulations pertinent to oil and gas development activities? We oppose this provision and recommend its elimination from the planning documents because it is wholly inappropriate for BLM to attempt to acquire private property rights.

Special Status Species

Page 2-50, "LEASE NOTICE LN-3: *Biological Inventories. The operator is required to conduct a biological inventory prior to approval of operations in areas of known or suspected habitat of special status species, or habitat of other species of interest such as but not limited to raptor nests, sage-grouse leks, or significant natural plant communities*."

COMMENT: We strongly object to language in this lease notice. Requiring the operator to conduct a biological inventory in every circumstance may be unjustified, particularly if the operator or BLM have determined that an area with once known or suspected habitat of special status species no longer contains the resource values to be defined as such. In addition, the operator should not be required to conduct a biological inventory if exceptions, modifications, or waiver criteria have already been met. Therefore, we recommend that the BLM reword the language in the Final EIS to state that "*the operator may be required to conduct…*"

BLM must also recognize that it cannot impose new restrictions, including biological inventories, on valid existing leases simply because a plan amendment has been prepared. As discussed previously in these comments, restrictions on surface-disturbing and disruptive activities cannot be enforced if they are inconsistent with the original terms of the lease and its associated valid existing rights.

Plants

Page 2-49, Alternative B – STIPULATION CSU-11: Significant Plant Communities*. "For those plant communities that meet BLM's criteria for significant plant communities, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. Habitat areas include occupied habitat and habitat necessary for the maintenance or recovery of the species or communities."*

COMMENT: The language regarding the relocation of activities in this stipulation is nebulous because it fails to provide parameters regarding when such measures may be utilized. In addition, BLM has failed to identify or map these significant plant communities. We recommend that BLM provide examples of when special designs and/or relocation of operations would be scientifically justified. We are also concerned that BLM believes it has the discretion to relocate activities to any distance it pleases, which could result in unreasonable constraints and prove to be geologically or financially unfeasible for oil and gas operators. BLM must acknowledge that protection of valid existing rights must be a consideration in such situations. Further, BLM proposes to use the same restrictions for several plant species listed under the ESA for those that have only been proposed. Imposing the same restrictions on non-listed species as listed species is unjustified, excessive, and unnecessary.

Special Status Species – Plants

Page 2-49, Alternative B –Stipulation CSU-9: BLM Sensitive Plant Species Occupied Habitat. "*For plant species listed as sensitive by BLM, special design, construction, and implementation measures within a 100-meter (328 feet) buffer from the edge of occupied habitat may be required. In addition, relocation of operations by more than 200 meters (656 feet) may be required."*

COMMENT: The language regarding the relocation of activities in this stipulation is nebulous and gives BLM the discretion to relocate activities to any distance it pleases, which could result in unreasonable constraints and prove to be geologically or financially unfeasible for oil and gas operators. BLM must recognize protection of valid existing rights must be a consideration in such situations.

COMMENT: BLM has not identified the areas with special status plants that will be subject to CSU-9. As a result, we are unable to determine how future oil and gas activities will be in impacted by this proposed stipulation.

White-Tailed Prairie Dog

Page 2-74, Alternative B –Stipulation NSO-30: Occupied Prairie Dog Towns (no buffer). "*Prohibit surface occupancy and surface-disturbing activities within active white-tailed prairie dog towns.*"

COMMENT: What is BLM's scientific justification for these management restrictions in white-tailed prairie dog towns, particularly the NSO stipulation within occupied prairie dog towns? This stipulation does not correspond with the FWS' recent listing determination for the species and its conclusions about the impact of oil and gas development on black-tailed prairie dog habitat. In 2010 the FWS determined that the listing of the white-tailed prairie dog under the ESA was not warranted and that *"due to its widespread distribution and extent of development, oil and gas activities will have the greatest potential to impact the white-tailed prairie dog. However, large populations persist in many of these areas*." Accordingly, the proposed NSO stipulation for oil and gas leasing within occupied prairie dog towns is not justified and does not correspond to the FWS' findings. We recommend that this stipulation be eliminated from the final planning documents. Given the persistence of prairie dog towns in areas with oil and gas development, we recommend that BLM use a CSU stipulation in these areas.

Terrestrial Wildlife

Page 2-80, Alternative B – Stipulation LN-5: Working in Wildlife Habitat. "*Require operators to establish and submit to the GJFO a set of operating procedures for employees and contractors working in important wildlife habitats. Design such procedures to inform employees and contractors of ways to minimize the effect of their presence on wildlife and wildlife habitats. Procedures may address items such as working in bear or snake country, controlling dogs, not feeding wildlife, and understanding and abiding by hunting and firearms regulations.*"

COMMENT: BLM has failed to provide any justification for an additional set of operating procedures for employees and contractors working in important wildlife habitats. Moreover, this proposed lease notice is extremely vague and fails to define the items that would be required in such a plan. Absent the

required parameters, it is likely that operators may not submit sufficient information in their plan, causing delays in the planning process, or contrarily, spend undue time and resources developing a plan that goes beyond the scope of BLM's requested information. We recommend that not only must BLM fully explain it rationale for this lease notice, it must also fully describe the scope of the items to be included in such a plan.

CULTURAL RESOURCES

Cultural resource sites vary widely in quality of preservation, size, density relative to a geographic area, contemporary cultural importance, and scientific value. While recognizing that prehistoric and historic sites are a finite resource, their management must also be afforded a level of flexibility and discretion as dictated by site analysis. The mitigation measures employed to protect discrete sites must therefore vary according to their scientific or contemporary cultural significance. Some prior general knowledge as to how these mitigation measures might be employed is vital to planning purposes for other land uses.

Pages 2-102-104, *Allocation to Use Categories and Surface Disturbance Prohibitions* – Cultural sites will be allocated to various use categories according to nature and relative preservation value (Table 2.2,). Categories include *Scientific Use, Conservation for Future Use, Traditional Use, Public Use, Experimental Use, and Discharge from Management*. Alternatives B, C, and D propose to prohibit surface occupancy or surface disturbing activities within 100 meters of sites designated as Scientific, Conservation, and Public Use, and 200 meters for Traditional Use sites.

COMMENT: For sites that are relatively isolated, project redesign/relocation to accommodate this buffer may not prove to be a major inconvenience or obstacle, but if multiple sites are clustered together these buffer zones may overlap and would likely place large swaths of land off limits to necessary surface infrastructure for resource development. We oppose BLM's proposed management scheme because it is completely unwarranted. All federal undertakings require compliance with Section 106 of the National Historic Preservation Act (NHP), which necessitates identification of sites, assessment of potential impacts, and determination of necessary mitigation measures to protect cultural resources present in the area. The approach outlined by Congress in the statute was carefully designed to provide the essential flexibility needed when drafting a surface use plan of operations that protects cultural resources while still allowing access to oil and natural gas resources. Default stipulations prohibiting surface occupancy remove this important option from the toolbox of both operators and federal land management personnel. It would appear that BLM is seeking to remove the need for FO archeologists to work with operators in developing reasonable mitigation plans for such areas in accordance with the NHP. We recommend BLM eliminate the use of these unnecessary and excessively restrictive stipulations from the final planning documents.

Pages 2-103-104, *Visual Impacts to Traditional Use and Public Use Categories* – The DEIS indicates that visual impacts will be considered for projects in proximity to Traditional and Public Use categories.

COMMENT: The Draft EIS/RMP fails to describe in any specificity the types of visual impacts it is referring to, nor does it detail any remedial actions for those impacts, including infrastructure redesign, camouflaging, or relocation. This level of vagueness is unacceptable because it makes assessment of

regulatory requirements for projects that may be in proximity to these sites virtually impossible. Furthermore, we remind BLM that most of the oil and gas infrastructure commonly associated with visual impacts is temporary in nature. The most conspicuous equipment, such as a drill rig, is only present for a relatively very short period of time. As wells are completed, the infrastructure, well pad acreage, etc., are systematically removed through interim reclamation efforts. As the initial footprint shrinks, visual impacts greatly lessen. We recommend BLM take into account the essentially temporary visual impacts of oil and natural gas development and revise its approach in the final planning documents.

Inadvertent Discovery – Numerous federal and state statutes protect archaeological resources, including the National Historic Preservation Act, Archaeological Resources Protection Act, and Native American Graves Protection and Repatriation Act.

COMMENT: In the event that cultural resources are discovered during the course of oil and natural gas operations, we ask BLM to provide assurances that appropriate mitigation measures will take place expeditiously and not unnecessarily delay development and production.

Page 4-206, Infrastructure Rights of Way – "*Siting ROWs along existing corridors does not reduce the potential for effects on cultural resources.*"

COMMENT: The DEIS states that approximately 15% of the planning area has already been surveyed for cultural resources, much of it due to NHPA Sec. 106 compliance for oil and gas operations. If such is the case, existing corridors ought to have been surveyed for resources, and construction of infrastructure, i.e. pipelines would have led to site discovery as well. Following existing corridors in certain circumstances may prove more economical and expeditious, yet if BLM holds that doing so provides no added resource protection some benefit of this planning strategy will be unnecessarily removed.

PALEONTOLOGICAL RESOURCES

Similar to cultural, paleontological resources also widely vary in both density and scientific value. While many fossil remains are widespread and well-studied, others may be rare and little understood. Numerous resources undoubtedly remain undiscovered and may be of high scientific value. Management of this resource concurrently with others requires the ability to assess the fossil resources present and make common sense discretionary management decisions accordingly.

Page 2-109, *Manage paleontological resources according to their Potential Fossil Yield Classification* – The DEIS indicates that paleontological resources will be managed within a spectrum from Class 1 formations (low potential) to Class 5 (very high potential). Class 4 and 5 (high and very high potential) areas will require an inventory from a permitted paleontologist prior to surface disturbing activities.

COMMENT: The DEIS provides no discussion of activities subsequent to an inventory. If fossil resources are discovered, how will they be evaluated scientifically, and what levels of protection and mitigation will be required as per any evaluation? How does BLM propose to manage vertebrate vs. invertebrate/plant remains? Are some vertebrate fossils to be afforded higher protection? Will fossils lacking established provenience be afforded a lesser level of regulatory protection, etc.? Some level of

regulatory certainty is imperative for operations planning purposes. Therefore, we recommend that BLM provide direction in the final planning documents.

Page 4-227, Dinosaur Diamond Prehistoric Highway – "*enhance, promote, interpret, and protect the paleontological resources of the Dinosaur Diamond National Scenic Byway."* The portion of this scenic byway that runs through the planning area is a corridor of Colorado State Highway 131, which transects a region containing oil and natural gas development.

COMMENT: The DEIS provides no elaboration of what actions BLM intends to take to "*enhance, promote, interpret, and protect*" this corridor. Does this include visual impacts, and does that consideration account for the temporary nature of much of the infrastructure associated with oil and natural gas development? We recommend that BLM identify its specific management intent in the final planning documents in order to provide a level of regulatory certainty important for operations planning purposes.

Page 3-139, Paleontological Resources Protection Act – "*Future preservation measures enacted under the Paleontological Resources Preservation Act (passed in 2009 as part of the Omnibus Public Lands Act) will be implemented as regulations are finalized*."

COMMENT: Subject to the requirements of existing federal and state laws, the FLPMA, MLA and BLM Planning Handbook 1600 all prohibit BLM from imposing new restriction on existing lease holdings. Leases issued under one management regime may not be altered by the introduction of new management regimes or amendments to existing management plans. Nor can BLM impose mitigation measures that exceed the requirements outlined in existing leases. The integrity of valid existing rights for mineral leases must be maintained even as any other private property right must be. We ask BLM to provide assurances that no retroactive stipulations on current leases will be attempted respondent to regulations promulgated under the Paleontological Resources Preservation Act.

VISUAL RESOURCES

Page 2-110, *Visual Resource Management Classes* – Preferred Alternative (B) proposes to manage 98,500 acres as Class I, including existing Wilderness Study Areas, and 314,500 acres as Class II, including land managed for wilderness characteristics (Table 2.2, page).

Page 4-239, Class I areas would be treated as Right of Way exclusion areas, and Class II areas would be classified as Right of Way avoidance areas ().

COMMENT: BLM must ensure that activities adjacent to VRM Class I or II areas are not restricted to enforce the VRM class requirements. Doing so would, by default, vastly increase the amount of acreage managed under these Visual Resource Management classes over the amount stated in the DEIS.

Page 4-138 & Appendix B, page 78 – Surface disturbing activities would be prohibited in VRM Class II; utilize CSU stipulation that would require surface disturbing activities in VRM Class II to preserve the objective that changes to the landscape be minimal.

COMMENT: Since much of the proposed VRM Class II proposed acreage is currently leased, we remind BLM that it has no authority to impose new restrictions existing leases in accordance with the Interior Board of Land Appeals (IBLA). Specifically, IBLA has stipulated that BLM does not have the authority to apply visual constraints that exceed existing lease terms, including the imposition of restrictive COAs. Moreover, IBLA has directed that BLM take into full account potential these existing rights to explore for and develop mineral resources when determining VRM classes within the planning area. Therefore, we recommend that BLM revise its proposal to prohibit all surface disturbing activities in VRM Class II areas or revise its proposed VRM Class II boundaries to exclude leased acreage.

LANDS WITH WILDERNESS CHARACTERISTICS OUTSIDE DESIGNATED WILDERNESS STUDY AREAS

Lands identified for preservation of wilderness characteristics would be prohibited from fluid mineral leasing and geophysical exploration activities under Alternatives B and C; no similar action is proposed under Alternatives A and D.

With the exception of the West Creek area as proposed under Alternative B, none of the areas identified as having wilderness character meet the standard for wilderness management due to the fact that they all contain oil and gas leases. Since Secretarial Order No. 3310, Sec. 5 d.(3) requires the agency to protect and honor the existing rights including valid and existing rights, the fact that oil and gas leases exist within these areas cannot be managed for their wilderness character despite the fact they may meet certain wilderness character criteria. The statement by BLM that the leases in Maverick and Unaweep are not in areas of current known potential or conventional or shale gas development and that no past exploration or development for oil and gas has occurred is irrelevant. These areas contain valid existing rights which preclude BLM's capability to manage these areas in accordance with their wilderness characteristics and we oppose BLM's management proposals for all but West Creek under both Alternatives B and C.

Ironically, this severe management limitation is recognized in the description of West Creek Adjacent where BLM acknowledges that the 36-acre portion of the unit could be managed for wilderness characteristics "*because it has no conflicts with valid existing rights or other* uses." BLM also acknowledges that the nine additional areas identified under Alternative C "*fall within the portion of the GJFO with known potential for natural gas development, and are largely leased for oil and gas development; or provide motorized and mechanized use opportunities. Under the Preferred Alternative and its corresponding travel management plan the manageability of these areas for wilderness characteristics would be compromised by valid existing rights, and/or motorized and mechanized use and these areas would be managed for other resources and resource uses.*"

BLM's proposal to preclude geophysical development on lands with wilderness characteristics is unfounded and inconsistent with BLM Manual 3150 (L)(.11), Onshore Oil and Gas Geophysical Exploration Surface Management Requirements, which classifies geophysical activities as a "*casual use*". Casual use is defined in the Manual as "*Activities that do not cause any appreciable disturbance or damage to the public land or resources or existing improvements on that land are considered casual use*." In fact, the Manual clearly recommends that exploration in closed areas as well as in areas subject to no surface occupancy stipulations be allowed because "*geophysical data collected from areas closed for oil and gas development may provide additional insights into the interpretation of data collected in*

other areas that are open to development." We recommend that BLM revise its management approach to geophysical activities in all section of the DEIS to comport with established Bureau policy.

MASTER LEASING PLANS

We support BLM's determination that it is unnecessary to prepare an MLP for areas proposed by environmental groups because those areas do not meet the required criteria. The GJFO has also found that the comprehensive review of fluid minerals leasing provides the same level of analysis that would be required under an MLP. Therefore, an MLP is unwarranted.

CONCLUSION

BLM has failed to disclose the impacts the limited future leasing under Alternatives B and C may have upon future production activities. While operators own numerous leases within the Planning Area, some of these leases are isolated and are virtually impossible to economically develop. It must be recognized that only the producer assumes the risk of exploring by drilling a wildcat area only after assembling a large enough lease block so that, if the drilling project is successful, an adequate return on the high risk dollars invested can be obtained. BLM has typically recognized the need for control of a reasonable acreage block. The GJFO must recognize, study, and report the economic impact of its decision to close significant portions of the Planning Area to leasing, or to make significant portions only available with major constraints, will have upon future exploration and development in the area. It is not enough for the BLM to simply assert that existing lease rights will be protected. Rather, the BLM must analyze how existing lease rights will be impacted by future limitations on future additional leasing and development and identify the protections it will afford to existing leases.

We appreciate this opportunity to provide BLM with our concerns and recommendations for modification of the GJRMP/DEIS. Please do not hesitate to contact us if you have questions regarding our comments or would like to discuss our views in greater detail.

Sincerely,

Claire Moseley
Public Lands Advocacy

Spencer Kimball
Western Energy Alliance

David Ludlam
West Slope COGA

Cc: Helen Hankins – CO BLM State Director
Jim Cagney – Northwest District Manager
Katie Stevens – Grand Junction Field Office Manager