



January 17, 2012

Mr. John Russell, RMP Project Leader
Bureau of Land Management
Colorado River Valley Field Office
RMP COMMENTS
2300 River Frontage Road
Silt, Colorado 81652

VIA EMAIL: co_crvrmp@blm.gov

RE: Colorado River Valley Draft Environmental Impact Statement/Resource Management Plan

Dear Mr. Russell:

Following are comments on the Draft Environmental Impact Statement/Resource Management Plan (DEIS) prepared for the Colorado River Valley Resource Management Plan revision (RMP) which are submitted on behalf of Public Lands Advocacy (PLA), Colorado Oil and Gas Association (COGA), Colorado Petroleum Association (CPA), and the West Slope Colorado Oil and Gas Association (WSCOGA). In addition to the aforementioned trade groups, an ad hoc group of oil and gas energy producers active in the Colorado River Valley was formed to work together to review the DEIS and prepare these joint detailed comments on the DEIS. We, request that each named party be recognized as a commenter in this public review process.

GENERAL

The Piceance Basin is 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, we are markedly concerned by BLM's apparent lack of consideration of recent exploration activities of underlying shale formations that could also prove successful. Our concerns are amplified by BLM's evident dismissal of advances in drilling and production techniques that have allowed the energy industry to tap previously unreachable reservoirs of natural gas and limit its surface footprint to do so.

It is evident that BLM has chosen to ignore natural gas that can be produced via unconventional means, such as those found in shale and other formations, which have become economic in recent years due to a combination of horizontal drilling and hydraulic fracturing technologies. In addition, the capability of drilling many wells from a single pad allows industry to produce natural gas resources with much less environmental disturbance. Due to these significant technological

advances and geologic discoveries, the benefits of unconventional gas production needs to be fully recognized by BLM in its planning efforts by acknowledging that these proven practices are designed to protect groundwater and air quality, and minimize other environmental impacts.

Another significant concern relates to BLM's endeavor to exceed 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) has been delegated by EPA to regulate air emissions and visibility. In addition to CDPHE 2008a 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. We also point out that 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.

Under Management Common to All Alternatives, the DEIS claims all alternatives contain several common elements. As such, BLM has stated it will comply with state and federal laws, regulations, policies, and standards, including the multiple use mandates of FLPMA. While BLM has identified several Colorado Statutes with which it will comply, i.e., Colorado Standards for Public Health and Guidelines for Livestock Management, as well as CDPHE air quality regulations, we recommend that the wildlife standards adopted by the Colorado Oil and Gas Conservation Commission (COGCC) also be incorporated in order to avoid unnecessary duplication and inconsistencies in management.

NEPA COMPLIANCE

The purpose of the National Environmental Policy Act (NEPA) is to promote informed decision-making by federal agencies by making detailed information concerning significant environmental impacts available to both agency leaders and the public. The DEIS has conspicuously failed to provide the scientific materials required to demonstrate that the agency has made informed decisions regarding the broad imposition of new, highly restrictive lease stipulations. Simply imposing new stipulations to presumably protect wildlife, cultural resources, visual and air quality values does not meet the NEPA mandate to provide the public and stakeholders with the analysis upon which such decisions are based. In other words, NEPA directly requires that the analysis materials must be included in the DEIS to demonstrate that changes in management are warranted. BLM has failed to meet this requirement, which is a fatal flaw of the planning documents.

As discussed in our comments on the Reasonably Foreseeable Development scenario, BLM has failed to account for the increased potential for oil and gas exploration and development

opportunities that have recently become available from shale formations as well as other previously available but unexplored geologic formations through the application of new technologies and techniques. In so doing, BLM has chosen to select the most restrictive of alternatives, which would limit future activity to currently producing areas. This management approach is unacceptable and ignores the agency’s multiple-use mandate required by the Federal Land and Policy Management Act (FLPMA), which provides that where there are competing resource uses in the same area, BLM is required to manage the resources to best meet multiple use and sustained yield. Moreover, FLPMA at Section 102.12 requires that “*the public lands be managed in a manner which recognizes the Nation’s need for domestic sources of minerals, food, timber, and fiber from the public lands...*” These requirements are absent from the BLM’s analysis and proposed RMP.

Other critically important materials excluded from the DEIS, and therefore unavailable for public review and consideration, include Oil and Gas Best Management Practices, locations of Core Wildlife Areas, Cultural Resource Consultation procedures, and Special Status Species Consultation procedures. All of this information must be provided in order for the public to clearly understand BLM’s proposed management of public lands.

ALTERNATIVES

The BLM analyzed four management alternatives in detail in the DEIS.

- Alternative A is the continuation of the present management situation.
- Alternative B, the preferred alternative, is identified as imposing the greatest restrictions on oil and gas leasing and development, with the highest level of no surface occupancy, controlled surface use and timing limitation restricts. Alternative B has the second highest level of lands closed to mineral leasing.
- Alternative C emphasizes resource protection and sustaining or restoring ecological integrity of habitats for all plant, wildlife, and fish species.
- Alternative D is described as having the appropriate mixes of uses on BLM lands and mineral estate and would be based on making the most of resources that target social and economic outcomes while protecting land health.

Table 4.3.6-1

	Alt A	Alt B	Alt C	Alt D
Federal wells permitted	2,664	2,206	2,206	4,198
Well pads	333	276	276	525
Surface disturbance (acres)	3,347	2,774	2,774	5,276

Source: BLM 2008g

Ninety-five percent of the federal mineral estate in the CRVFO that is mapped as high potential has been leased (BLM 2007g).

COMMENT: Based upon our review of the DEIS, BLM has failed to validate the need to change the current management scenario portrayed in Alternative A. The DEIS simply imposes different management options without any scientific basis for the increase in restrictions. Alternative C is purportedly designed to emphasize protection of ecological resource values, which could be described at the maximum protection alternative. However, as far as providing opportunities for

future development of oil and gas resources, there is virtually no difference between Alternatives B and C, as demonstrated in the above table. Consequently, there is no real balance among resource uses in Alternative B, which fails to recognize the nation's need for domestic sources of minerals, renewable energy, food, timber, and fiber, and incorporate requirements of the Energy Policy Act of 2005 (Public Law 109-58).

COMMENT: Based upon the unwarranted restrictions on oil and gas exploration and development, including Alternatives A, the No Action alternative, and Alternative D, we do not support selection of any of the management alternatives analyzed in the DEIS. The rationale for this position is that BLM has developed unreasonable management objectives and restrictions on development under all the alternatives. In particular, the requirements associated with wildlife and air quality protection under all alternatives are excessive and unsupported in the analysis. This rationale is further discussed in our comments on wildlife and air quality.

COMMENT: Clearly, BLM's preferred Alternative B has been designed to thwart virtually all new exploration and development activities within the planning area. Under the unconstrained RFD, a total of 5,768 wells were projected to be drilled on 200,937 acres of BLM mineral estate. On the 139,005 leased BLM acres, the DEIS indicates that industry estimated that approximately 5,318 wells would be drilled over the next 20 years. This equates to about 38% of the total wells needed to drain the leased acreage assuming development on 10-acre spacing. However, based upon recently acquired geologic information, this assumption is now inaccurate because it failed to take into account the variety of shale formations which have been deemed favorable development targets.

Under Alternative B, BLM would prevent access and development on over half of the area previously identified as having potential for development. Moreover, it would essentially preclude new leasing in areas with potential for future untapped energy mineral resources. For example, Alternative B would impose NSO stipulations on over half of the acreage made available for future leasing. In effect, this acreage would be fundamentally unavailable for exploration and development activities because it would be virtually impossible to access these areas from outside the NSO boundary. Of the remaining acreage, the unwarranted use of overlapping CSU and TL restrictions make it even more difficult to initiate a viable oil and gas project in the future throughout the entire CRV planning area. Therefore, Alternative B fails to meet the requirements of the Federal Land Policy and Management Act (FLPMA). As defined by FLPMA, 43 USC §1702 (c) ("Section 103(c)"), multiple-use is the "*management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people.*" Alternative B takes the most restrictive means to allowing mineral development. BLM's Fluid Minerals planning manual H-1624-1 requires the use of the "least restrictive stipulations that effectively accomplishes the resource objectives" recognizing there are adequate laws in place to ensure resources are protected including, but not limited to the National Historic Preservation Act, the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and National Environmental Policy Act. This plan unreasonably protects aesthetic resources to the exclusion of all other multiple-uses, which is contrary to the fundamental mandate of managing federal lands for multiple-use.

We oppose the selection of Alternative B as the Preferred Alternative because its implementation would not only have a negative impact on future exploration and development activities for oil and

gas, but it would also have a negative impact on local economies which rely upon revenue generated by continued opportunities for development of energy mineral resources. Moreover, it subordinates commodity-based multiple uses to aesthetic values that can be adequately protected without the overzealous approach dictated under Alternative B.

VALID EXISTING RIGHTS

Under Management Common to All Alternatives, the DEIS states, “BLM has the discretion to modify surface operations to change or add specific reasonable mitigation measures when supported by scientific analysis and consistent with lease rights. All mitigation/conservation measures not already required as stipulations would be analyzed in a site-specific NEPA document, and be incorporated, as appropriate, into conditions of approval of the permit, plan of development, and/or other use authorizations.”

Comment: Once the BLM has issued a federal oil and gas lease without NSO stipulations, and in the absence of a nondiscretionary statutory prohibition against development, the BLM cannot unilaterally deny development on existing leaseholds. We are concerned that no explanation of what constitutes valid existing lease rights and how they relate to new land use decisions has been provided. We recommend that BLM clearly state in the Final EIS that the new restrictions proposed in the Preferred Alternative will not apply to lands already under oil and gas lease. Moreover, it must be made clear that BLM has no authority to impose these new restrictions through Conditions of Approval (COA) on applications for permit to drill (APD) if they would abrogate the valid existing lease rights. Once a lease has been issued, stipulations may not be legally modified absent voluntary agreement by the lessee. Therefore, in accordance with 43 CFR 3101 and federal case law, we recommend that BLM clearly disclose its limited authority to add conditions of approval to a drilling permit, i.e., conditions must remain consistent with the terms of the issued lease.

These principles are particularly important given the fact that new protections identified in the draft RMP could very much impose significant limitations on existing leases that were not anticipated at the time the leases were acquired from the federal government in good faith. Such qualifiers are consistent with current rules and policies of the BLM and must be clearly disclosed in the planning documents. We recommend the Colorado BLM use language similar to that used in the 2008 Pinedale RMP, which clarifies that “Existing oil and gas or other mineral lease rights will be honored. When an oil and gas lease is issued, it constitutes a valid existing right; BLM cannot unilaterally change the terms and conditions of the lease . . . Surface use and timing restrictions from this RMP cannot be applied to existing leases.” Pinedale RMP, pg. 2-19.

LEAST RESTRICTIVE STIPULATIONS

Section 363 of the Energy Policy Act of 2005 requires 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.

Comment: Specifically, we are concerned by the restrictions imposed in proposed special designation areas and unlisted wildlife species habitat because many are either closed or subject to highly restrictive stipulations, such as no surface occupancy (NSO). The DEIS ignores BLM

policy that states "*the least restrictive stipulation that effectively accomplished the resource objectives or uses for a given alternative should be used.*" Therefore, it is necessary to demonstrate that less restrictive measures were considered but found insufficient to protect the resources identified. A statement that there are conflicting resource values or uses does not justify the application of 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 be provided. Clearly, an examination of less restrictive measures must be a fundamental element of a balanced analysis and documented accordingly in the FEIS.

FLPMA SECTION 204

Under all alternatives, BLM has identified various acreages that will be closed to oil and gas leasing; Alternative A-27,800 acres; Alternative B-55,600 acres; Alternative C-175,500 acres; Alternative D-48,000 acres. These areas are proposed for closure to leasing to ostensibly protect wildlife core areas, areas of critical environmental concern, and other special management areas. No factual justification for such closures has been provided in the DEIS.

We remind BLM that under Section 204 of FLPMA, only the Secretary of Interior has the authority to close areas of 5,000 acres or more from oil and gas leasing and development. Further, before so doing the Secretary is legally obligated to meet the requirements identified below before moving forward with such closures. Specifically, notice of the proposed withdrawal must be published in the *Federal Register* and hearings must be held. In particular, the notice must describe and include:

- The proposed use of the land;
- An inventory and evaluation of current natural resource uses along with the value of the land and adjacent public and private land that may be affected;
- Identification of current users and how they will be affected;
- Analysis of the manner in which the existing and potential uses are incompatible with proposed uses;
- Analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed uses;
- A statement as to whether suitable alternative sites are available;
- A statement of consultation with other federal, regional, state and local governments;
- A statement regarding the potential effects of the withdrawal on state, local and regional economies;
- A statement of the length of time needed for the withdrawal;
- The time and place of hearings regarding the withdrawal;
- The place where records of the withdrawal can be examined; and
- A report prepared by a qualified mining engineer, engineering geologist, or geologist, which includes information on mineral deposits, mineral production, existing mining claims, and an evaluation of future mineral potential.

If BLM moves forward with its intent to close these large areas to future oil and gas development, the agency is required to notify Congress of its intent before the CRV RMP is finalized and a record

of decision published. We have found no evidence that the agency has complied with the above requirements.

SOCIO-ECONOMIC ANALYSIS

COMMENT: BLM is required under 43 CFR § 1610.4-4 (g) to analyze the level of dependence of local communities on resources from public lands during land use planning. As such, the BLM Land Use Planning Handbook (H-1601-H) and Instruction Memorandum No. 2002-167 each address social and economic analysis for land use planning. Factors required to be analyzed include: demographic, economic, social and fiscal conditions and land use patterns. In addition, existing conditions and trends, as well as the impacts to conditions and trends associated with each alternative must be assessed along with the income and employment associated with all economic sectors, community infrastructure, state and local revenues and expenditures, and land use patterns.

By ignoring these requirements, BLM has grossly misconstrued the negative impacts the draft plan will have on the local and Colorado economy. BLM's statement that *"regardless of differences among the alternatives, area dependency on BLM related employment provided to the mining [including oil and gas] sector would not change among the alternatives. Consequently, any cumulative economic effects on those dependent on these contributions will remain the same under the alternatives"* is a false assertion, as discussed below.

The socio-economic analysis contained in the CRV DEIS is fundamentally flawed because it intentionally ignores the severe impacts on local and State economies which will result from the excessive restrictions on oil and gas exploration and development contained in the DEIS. The broad use of overlapping and needlessly restrictive stipulations on oil and gas activities will result in several negative consequences on development of critically needed energy resources. Specifically, the application of NSO stipulations to protect various special status species, lands with wilderness characteristics outside existing WSAs, ACECs, sensitive soils, riparian areas and recreation sites would seriously inhibit or preclude development of energy resources while increasing the costs of development. These added costs will cause potential lessees to abandon their interests in certain areas or result in significantly lower bids on lease parcels. The overly broad use of timing limitations will cause protracted delays in operations, particularly where two or more timing stipulations are applied with different dates because they will cause confusion and uncertainty which will result in significant financial impacts. Clearly, the addition of more lease stipulations and constraints will result in direct economic losses if companies cannot fully develop their leased acres. Furthermore, BLM has ignored the fact that these increased costs will negatively impact companies' returns on their investments which will cause losses of production in areas that are closed to leasing. The consequences of this loss of production will negatively result impact royalty payments to the federal government, the State of Colorado, and local communities. This loss of production will also lead to a loss of natural gas available for distribution to the American markets. According to the Bureau of Economic Analysis (BEA 2007), oil and gas extraction and supporting activities contributed \$179 million to total personal income in 2007 within Garfield County, alone.

NEPA requires analysis of socio-economic impacts in order to ensure that agency decisions do not result in a financial burden upon the communities which rely on public lands for their livelihoods

and revenue. It is crucial for the CRV economic impact analysis to be revised to recognize that the economic benefits to local communities and the State of Colorado from oil and gas development will decrease proportionately due to the limitations imposed on future oil and gas development by BLM.

Section 3.6, Government Revenues and Expenditures

COMMENT: This discussion fails to address the sizeable tax revenue received city and county governments from oil and gas development within the CRV FO. Consequently, BLM has ignored the fact that the proposed closures and severe restriction on future exploration and development will significantly impact the socio-economic structure within these communities. We recommend that BLM revise its analysis to include all sources of tax revenue in order to accurately disclose the impacts its management decisions will have on local government and communities within the planning area because it fails to recognize the significant, beneficial economic relationship enjoyed by the oil and gas industry and local communities.

Section 4.6 Environmental Consequences

COMMENT: The figures displayed in Tables 4.6.2-5 and 4.6.2-6 are inconsistent and must be revised. Moreover, the percent of increase in jobs and employment described in the text, i.e., that each of the alternatives would result in increased jobs and/or income, conflict with the tables and must be changed accordingly.

COMMENT: The number of wells analyzed by alternative is inconsistent throughout the document and must be corrected.

COMMENT: We challenge BLM to justify its conclusion that the changes in management from Alternative A to Alternative B or Alternative C could actually result in a substantial increase in mineral royalty distributions reflected in Table 4.6.2-4 while at the same time stating that any potential decrease would be limited to 1 percent. Neither statement is factual because the impacts from the onerous restrictions proposed under Alternatives B and C will significantly impact the economic opportunities in the CRV FO.

REASONABLY FORESEEABLE DEVELOPMENT SCENARIO

Page 2-10-2.3.1 Developing Alternatives for the CRVFO, Energy development (including air quality) *“The CRVFO is approaching the amount of oil and gas development projected in the reasonable foreseeable development (RFD) scenario from the 1999 Oil and Gas Leasing and Development Amendment EIS (BLM 1999b).” Development within the GSFO will continue to take place in the areas that are currently being developed. Infill drilling and step out drilling will be the major portion of future activity. Although drilling of proven reserves will continue, some interest is being shown by Industry for the USGS resource plays (other than the Mesaverde and Wasatch Formations). These interests are for the coalbed natural gas plays and for the Niobrara play. It is estimated that 99% of the drilling will occur in the area mapped as high potential for the occurrence of oil and gas resources. Approximately 1% of future drilling activity will occur in areas of medium and low potential and no drilling activity is predicted in the areas mapped as no known potential.”*

COMMENT: We strongly object to BLM’s assertion that the “The CRVFO is approaching the amount of oil and gas development projected in the reasonable foreseeable development (RFD) scenario from the 1999 Oil and Gas Leasing and Development Amendment EIS (BLM 1999b).” This interpretation is totally inconsistent with numerous findings of the Interior Board of Land Appeals (IBLA) which clarify that the RFD does not represent a limit on future development and that it is not a decision document. The intent of the RFD is simply to provide the BLM with the tools required to analyze potential impacts of future development in a NEPA analysis. As stated in *Biodiversity Conservation Alliance, et al, 174 IBLA 1, 11, (2008)* IBLA reiterates that “*While an important tool in the land use planning process, RFD scenarios do not constitute fixed or maximum limits on development under FLPMA such that exceeding them constitutes a violation of that statute.*” Similar findings have been recently issued by IBLA. Recent court cases have rendered similar findings. Therefore, BLM must revise its interpretation of the RFD in the final EIS and revise its management decisions accordingly. Specifically, we recommend that BLM clarify that the RFD is simply a prediction of future drilling and development that could occur in the planning area and that it does not establish a cap on the number of wells or surface disturbance that may occur during the life of the plan.

COMMENT: The Reasonably Foreseeable Development Scenario (RFD) prepared by BLM for analysis in the RMP revision predicts that development within the planning area “*will continue to take place in the areas that are currently being developed*” and that “*infill drilling and step out drilling will be the major portion of future activity.*” Cursory mention is made of recent industry interest in the USGS resource plays (other than the Mesaverde and Wasatch Formations), such as the coalbed natural gas plays and for the Niobrara play.

The RFD acutely understates the potential oil and gas opportunities that could be available from shale resources and other previously untapped geologic formations through the application of new technologies and techniques. We recommend BLM utilize updated geologic data and recognize the future needs of increased exploration and development activities and new leasing in the area before finalizing the planning document. Substantial exploratory work in the Niobrara and Mancos Shale formations and other areas of the planning area is currently underway by a variety of operators. While this exploratory work is still in the initial stages, every opportunity must be provided for full evaluation of the shale resource potential in the planning area. Additional exploration and refinement of drilling and production techniques in the Niobrara Shale and other formations could potentially lead to large scale economic production opportunities now that the presence of the resource has been confirmed. While some of this evaluation work is occurring on existing leases, it is entirely likely that new leasing will be necessary in order to develop these new resources. In line with the comment we offered earlier, these evaluation efforts would be needlessly impacted if BLM fails to recognize the importance of Valid Existing Rights and the value of new leasing programs.

LANDS WITH WILDERNESS CHARACTERISTICS

COMMENT: We recognize that BLM has responsibility to maintain an inventory of lands with wilderness characteristics (LWCs), and was directed to inventory and study its lands for wilderness characteristics under FLPMA. However, it is improper for LWCs to receive similar protection to a Wilderness Study Area (WSA). Consequently, BLM should not be imposing NSO or special

management for LWCs that are located outside of designated WSAs, because the agency does not have the authority to provide non-WSA LWCs special protection at the expense of other valuable resources.

Additionally, the *2011 Continuing Resolution* passed by Congress April 14, 2011 (*Department of Defense and Full-Year Continuing Appropriations Act of 2011*) specifically prohibits the use of federal funds to implement DOI *Secretarial Order 3310* (the “*Wild Lands*” policy) during this fiscal year. Consequently, BLM staff may not take action to re-inventory public lands with potential wilderness characteristics, protect multiple use LWCs as “*wild lands*,” or otherwise implement the “*wild lands*” policy into RMPs. While this Congressional mandate will expire at the end of the fiscal year, it is currently in effect. In a memo to BLM Director Bob Abbey dated June 1, 2011, Secretary Salazar confirmed that, pursuant to the *2011 Continuing Resolution* BLM will not designate any lands as “*wild lands*,” (i.e. LWCs outside of Wilderness Areas and WSA’s) and outlined how DOI will work in collaboration with members of Congress, states, tribes and local communities to identify public lands that may be appropriate candidates for congressional protection under the *Wilderness Act*. Secretary Salazar stated “I am confirming today that, pursuant to the *2011 Continuing Resolution*, the BLM will not designate any lands as wild lands.”

While BLM may work with Congress to identify public lands for permanent protection under the *Wilderness Act*, the authority to designate Wilderness Areas and protect LWCs under the *Wilderness Act* remains exclusively with Congress.

AIR QUALITY

GENERAL COMMENT

The air quality analysis must include projected emissions from regional sources, as recognized and included in this analysis. As a result, the emissions estimates from both the White River Field Office (WRFO) and CRVFO sources are critical to the regional and cumulative development of air impacts as presented in this document. We recommend that BLM clearly state that the estimates of emissions from sources outside the CRVFO are estimates only and do not imply a required level of control or mitigation on those sources, particularly with WRFO sources.

Overall given the technical limitations on emissions estimates and source configuration, the apparent weakness of the model results cited below, and the comparative impacts from the alternatives, the modeling analyses clearly do not justify the emission controls or mitigation that are developed in Alternatives B, C, and D.

COMMENT:

- The basis for BLM’s general assumption that the CRVFO gas would be processed at a facility in the WRFO area, as provided in Section 2.3.6.10 of the TSD, is unclear and must be explained.
- The gas processing operations in Appendix B were simply scaled up from 200 MMScf/day to 9,300 MMScf/day, which is a 46.5 factor increase, based on data for ExxonMobil Enterprise Piceance Development Project Central Treating Facility. This level of increase is outside the commonly accepted range by which project emissions can simply be scaled up. We

recommend that BLM utilize a processing emission scenario that is more realistic, such as including stack parameters, number of sources in source groups, etc.

- The implications of this scale up on air quality are objectionable in light of the impacts predicted for 1-hour NO₂ compliance, as noted below. It is necessary for the text of the analysis to recognize the weaknesses in the scaleup and limitations on reliability of model results that are generated without more defined source related data.

EMISSIONS DATA AND APPROACHES

COMMENT: For local roadways and resource roads, the CRVFO Alternatives B, C, and D assume graveling and paving to control emissions. For WRFO, the assumed roadway controls are water or chemical suppression. See Appendices A and B, pages A-3 and B-3. For Alternative A, only watering (50% control) is included for roadway dust suppression, which is not reiterated or is inconsistent with the “*No similar action*” statement in Table 2-3. Moreover, Table 2-6 shows PM₁₀ emissions for Alternative A that are twenty times the PM₁₀ emissions for Alternative D, which cannot be accounted for by the fact that roadway particulate matter emissions should be only double the Alternative D emissions, given the control effectiveness (50% vs. 94%). BLM must clarify the basis for this dramatic difference between PM₁₀ emissions for Alternative A and the other Alternatives, as presented in Table 2-6. This apparent difference between the scenario emissions is particularly important for visibility analyses, as discussed below.

COMMENT: The drill rig characterization for WRFO includes Tier 4 standards for WRFO Alternatives B, C, and D for 2015. For the CRVFO analysis Tier 4 rigs are phased-in in 2019. The same approach applies to Frac engines. BLM offers no basis for the difference in timing between the two regions, and fails to address the implications for specifying Tier 4 engines in 2015 for operations in WRFO.

COMMENT: Compressor engines are characterized as all electrical for Alternatives B and C and 50% electrical for Alternative D. BLM needs to clarify the two meanings of the separate entries for compressor engines in Appendix A, page A-3, which provide both electrical and fired compressors. Specifically, BLM must spell out what was actually modeled for compressors and whether electric compressor engines would be required based on this alternative development.

COMMENT: The emissions data assume controls for well completions for WRFO (95% VOC control) and condensate produced water flash emissions (95% VOC control) for Alternatives B, C, and D. We contend that controls or mitigation on WRFO sources are not supported by this analysis. Therefore, BLM must clarify whether this assumption implies the imposition of controls for options within WRFO.

COMMENT: Section 2.3.6.10 indicates that gas processing would be conducted in the WRFO as cumulative emissions, and pages B-37 and B-38 provide a summary of emissions for processing units for Alternative D. The header page on the tables indicate that scaling factors are needed for Alternatives A, B and C. There are no evident scaling factors. It is important for these scale-up factors to be reviewed and updated or deemed credible by the plant operators. BLM also needs to clarify how to calculate processing plant emissions from the lb/well data provided in the table on page B-37.

- For example: 194.77 lb NO_x per well X 21,200 wells is 2,040 ton of NO_x; BLM must explain whether this is an annual emission rate.
- In light of the predicted impacts on 1-hour NO₂, and based on the WRFO analysis, BLM needs to discuss the implications for operating this gas processing plant.

COMMENT: The TSD Table 2-3 indicates that produced water would be piped to its final destination for all alternatives (Alt A – 40%, Alt B&C 90%, and Alt D 80%). It is unclear whether this assumption is consistent with the data submitted by operators to BLM. BLM must also explain whether the assumption in the appendices which indicate that the condensate also would be piped to its final destination at the same level for the Alternatives has been discussed with and agreed to by operators.

COMMENT: The Road construction scenario provided by ExxonMobil for WRFO is not representative of the emissions scenario contained in Appendix B page B-6. Short-term PM₁₀ impacts may be underestimated by assuming only 12-hours per day; long-term are comparatively overestimated by the double size and triple the number of days per pad. These discrepancies need to be addressed in the Final EIS.

Parameter	WRFO Assumption	Exxon Mobil
Well pad road area (acres)	11	5.5
Construction (days/pad)	7.5	2.5
Daily construction duration(hr/day)	12	24

AERMOD ANALYSES

The AERMOD analysis focuses on a restricted development representative of the most intense emissions that are envisioned. This includes one compressor (presumably Alternative A) with 23,400 hp, operating amid a plot of four well pads with eight wells each. Two pads are being constructed with drilling and completion activities at the other two pads under this modeling scenario.

COMMENT: BLM needs to clarify whether this analysis includes drill rig emissions and requires that only one drill rig operate at any one time within the modeled square mile area.

COMMENT: It is unclear whether the stack parameters used for drill rigs and compressor engines in the near field modeling are critical to the final air quality assessment, particularly for 1-hour NO₂. BLM needs to clarify this so that operators can ensure that unit design is representative of what is modeled.

COMMENT: No background concentration for 1-hour NO₂ levels is included, and we’re aware that 1-hour NO₂ can be a serious impediment to permitting major drill rig engines. The conversion of NO_x to NO₂ for this effort should be clarified. The 1-hour NO₂ modeling approach also requires clarification, e.g., whether a refined approach was used (ozone limiting, plume method), the

conversion of NO_x emissions to NO₂, the use of estimated NO₂ to NO_x emission ratio, or a standard adjustment was applied.

COMMENT: Tier 2 engines were modeled even though Tier 4 engines are required in the Alternatives analysis. Given that the modeled impacts are acceptable with Tier 2 engines, there is no air quality related justification for requiring Tier 4 engines under any potential mitigation scenario. Therefore, we strongly recommend that BLM abandon the requirement for Tier 4 engines in the FEIS.

COMMENT: The second paragraph on page 3-11 of the TSD leaves open substantial uncertainty regarding compliance with 1-hour NO₂ standards and leaves the ultimate compliance as part of a source permit review by CDPHE. The statement sheds considerable uncertainty on how the results will be interpreted and must be clarified.

COMMENT: It is necessary for an AERMOD model input file be included in an Appendix, as is done for CALPUFF and CAMx modeling, to enable the review or verification of emission sources and operations.

COMMENT: For well pad construction, it is unclear whether all four pads can be constructed simultaneously while still maintaining compliance with ambient standards. BLM needs to provide details on what well pad construction sequence was assumed for the model input, and that concurrent well pad construction may occur. The modeling may not capture the potential density of concurrent well drilling or well pad construction. Nonetheless, it would be unreasonable for BLM to assume limited or coordinated well drilling and pad construction operations for all individual operators under this analysis.

COMMENT: Many detailed model inputs and assumptions should be clarified and BLM needs to discuss whether they would change the modeled results if altered. If any further modeling is undertaken as a result of comments, operators request an open review of the changes to the model input parameters or setup before the model is re-run.

CALPUFF ANALYSIS

COMMENT: We urge BLM to clarify in the FEIS an overall modeling approach, with reported impacts, for the modeled scenarios. On page 2-17 of the TSD the text indicates that the White River Alternative D was used for cumulative modeling for the CRVFO analysis. On page 4-13 and 4-14, the CALPUFF analysis of regional impacts is based on four scenarios that pair the CRVFO scenarios to the WRFO scenarios and the results are presented generally for Alternative D. It is unclear, and must be clarified, whether the Record of Decision (ROD) for CRVFO will be based on the WRFO Alternative D only, as indicated in the text on page 2-17, or as described in Section 4. BLM also needs to clarify whether this would place any constraints on the approval of Alternative A for the WRFO.

COMMENT: BLM needs to confirm there would be no constraints imposed on WRFO operations based on the modeled relatively high impacts in the WRFO area for 1-hour NO₂ and PM₁₀.

COMMENT: The CALPUFF model results show acceptable impacts at the identified Class I areas but show results above the NAAQS for the Gridded Class II areas, particularly over the southwestern part of the WRFO area, the central part of the WRFO area, and in the Colorado River Valley. See Page 4-17 for impacts for 1-hour NO₂, which is extremely high. The source characterizations that lead to these high impact levels should be investigated closely and explained. At a minimum, they must be put into context regarding their accuracy because the modeling results show results above the NAAQS. If emissions characterizations are very crude, but lead to impacts above the NAAQS, that qualification should be included in the TSD or the EIS.

COMMENT: We are aware that a formal modeling effort for PM₁₀ was conducted for the South Taylor mine area and that modeling effort submitted to CDPHE showed impacts that are within the ambient air quality standards. That situation and model result must be investigated and included as a comment in the TSD.

COMMENT: Referring to Figure 4-2 in the TSD, there is no analysis of why the Alternative A impacts show a high impact in the CRVFO area along highway 13 in the western area. From a review of the data this appears to be related only to the comparative lower controls on roadways. We recommend that this be confirmed and characterized in the TSD.

COMMENT: If the only adverse impacts from Alternative A are due to assumptions regarding roadway controls, it would be reasonable for Alternative A development to be approved for all oil and gas operations but with the same roadway controls as Alternatives B, C, and D.

COMMENT: In Tables 4-6 through 4-10 results for the gridded Class II areas are depicted above the NAAQS for at least one scenario. It is unclear whether that same impact would apply to other scenarios as well, which could be important for approving an alternative.

COMMENT: Maximum 1-hour NO₂ levels are shown in Table 4-6 and depicted in Figure 4-1 with the highest value persistently in the SW WRFO area; however, there is no discussion of the validity of that impact point. We surmise that the gas plant was scaled up from the original to proposed production. Further, the analysis depicted in Figure 4-1 shows exceedances at multiple places. It should be explained whether these same high impacts occur in other alternatives. Separate, but similar, depictions of 1-hour NO₂ impacts (identical to the form of Figure 4-1) for each alternative are required to address this issue and need to be included in the FEIS.

COMMENT: We strongly recommend that the analysis include a discussion of each modeled exceedance area, including a comparison of peak impacts for each alternative and a discussion of the sources that provide a significant or predominant impact on that modeled exceedances. This is particularly important if the predominant source emission characterization is not accurate or could be more accurately characterized.

COMMENT: We recommend that BLM describe in the text whether the results for visibility presented in Table 4-18 are the summary of data presented in Appendices G and H and whether they represent the highest impact from only one of the Alternatives (A) for any of the years and any of the three optional model runs. This would be a very conservative approach.

- Given the adverse visibility impacts modeled for the Roan Cliffs Plateau, it would be helpful to discuss the proximity of the sources to that view area, and discuss any limitations of CALPUFF and the grid density on depicting impacts within 50 km of the emissions source. (CALPUFF is not designed for impacts within 50 km of sources.) The limitations on interpreting the results need to be characterized in terms of the limitations of the model, setup, source characterization, etc.
- CALPUFF also can provide results indicating what “species” of pollutant contributes to visibility extinction, which would help explain whether roadway emissions are the only major contributor to the adverse visibility results.
- Given the data in Appendix G, Table G-19, BLM needs to explain in the document text (rather than just in section 7.4) that the high visibility impacts occur only with Alternative A and that the impacts for other Alternatives for CRVFO sources are all zero! BLM has failed to explain this magnitude of difference, which must be discussed in the text of the FEIS. In comparing these results to the emissions data in Table 2-6 and the summary discussion of controls in Table 2-3, BLM must explain whether it is appropriate to conclude that all the modeled visibility impacts on the Roan Cliffs view area, shown in Table 4-18, are due to the assumption that no controls are applied to particulate emissions from roadways.
- Table 2-3 compares emission from source groups for alternatives. Given the comparative results in Figures 4-2 and 4-3, there must be some other level of roadway control that would make sense for Alternative A. Note in Table 2-6 that there is a 20-fold change in total PM and PM₁₀ emissions between Alternatives A and D. To elucidate this discrepancy, the text needs to make clear that the impacts to visibility on the Roan Cliffs Plateau are due largely to the roadway emissions, which are less controlled in Alternative A, and are not due to other oil and gas emissions.

COMMENT: The fourth paragraph on page 4-34 needs to be reworded as follows, “*The model can account for the effects of emissions decreases if they are entered into the model. It’s just that those emissions decreases were not tabulated as input to this analysis.*”

OZONE ANALYSIS

The photochemical grid model (PGM) analysis appears to be based upon evaluating two episodic periods and comparing changes in modeled ozone concentrations based on emissions for a base case year (2006) and emissions growth projections for 2018 and 2028.

COMMENT: Section 5.5.3.2, page 5-30 must clarify the implications of the statement that “*Oil and gas sources included in the WRFO emissions inventories were assumed to be subject to emissions control based on management actions included in the WRFO RMP/EIS air quality analysis.*” BLM should clearly describe those management actions and discuss whether they have any implications for WRFO operations.

COMMENT: The overall results for the ozone modeling episodes are depicted in Figures 5-28 through 5-30. Based upon our review, the conclusion can be soundly drawn from Figures 5-28 and 5-29 for localized impacts that the expected change in ozone levels locally are very small and

likely to be negative, given the expected improvement in overall emission sources by 2018. In our view, this is the most meaningful result of the ozone modeling effort.

COMMENT: The conclusions provided in Section 7.3.2 speculate that monitoring is needed to determine whether the high ozone concentrations predicted in the CRVFO analysis during April could cause concern in localized areas. Given the potential uncertainties about stratospheric intrusion from the 2006 data, we strongly recommend this sentence be eliminated because the unique high values at the Gothic monitoring site for 2006 are not replicated in other years. (See the five years' data shown in Figure 5-1.) From Figure 5-28, it is clear that the CRVFO operations are not contributing to those relatively high values. Furthermore the nature of the ozone standard refers to a sequential three-year average of the fourth highest daily maximum 8-hour average value, since the April peaks are not consistent from year to year, this matter would be less of a concern.

COMMENT: From the ozone metrics provided in Tables 5-21 and 5-22, there is essentially no or minimal difference among the ozone impacts for each of alternatives, including Alternative A. This is a clear indication that there is absolutely no need for the proposed mitigation measures to control VOCs or NO_x in relation to ozone generation or compliance with the NAAQS. Controls that are evaluated among the Alternatives are related to green completions, glycol dehydration, facility consolidation, produced water piping, (From Table 2-3), field compression units, or controls on condensate and produced water tanks (From Appendix A and B, Pages A-3 and B-3).

WATER

CRV-NSO 3 – Major River Corridors, prohibit surface occupancy and surface-disturbing activities within .5 mile of either side of the high water mark of six major rivers

COMMENT: In addition to failing to provide information that supports the need for this stipulation, the stipulation fails to effectively delineate which hydrologic features are intended for protection. While we recognize that exception parameters have been provided, this stipulation is redundant because the US Army Corp of Engineers has authority for implementing the provisions of the Clean Water Act. We recommend BLM eliminate this stipulation, leaving such protection measures to the USACE 404 permitting process.

WILDLIFE

GENERAL

Generally, BLM's species habitat delineations go far beyond those identified by the Colorado Division of Parks and Wildlife (CPW). It is important that BLM provide justification for these discrepancies, particularly in view of 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 with the Western Governors' Association in which the departments agreed to coordinate with states in the identification and uniform mapping of wildlife corridors and crucial habitat. This has not been done in this RMP revision. Moreover, we can find no justification for BLM's maps to differ from those used by the State.

In fact, such discrepancies are problematic for operators who work on both State and private and adjacent to BLM public lands because two separate process could be required for the same project in areas where it may cross jurisdictional boundaries. It is our recommendation that BLM work closely with State agencies to eliminate the discrepancies in wildlife data utilized by BLM in the draft planning documents. Moreover, in view of the memorandum of understanding 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.

Chapter 2, Table 2.2, Page 2-38, Row 3: *“STIPULATION CRV-NSO-15: Fish-Bearing Streams. Prohibit surface occupancy and surface-disturbing activities within 100 meters (328 feet) of all fish-bearing streams. On streams where the riparian corridor width is greater than 100 meters (328 feet) from the stream edge, prohibit surface occupancy and surface-disturbing activities within the riparian zone. (Refer to Appendix B.) See Figure 2-2 in Appendix A.”*

COMMENT: The BLM's Preferred Alternative B proposes expanding the scope and increasing the distance for surface occupancy and surface-disturbing activities restrictions near fish-bearing streams. The current No Surface Occupancy (NSO) buffer for priority habitat for fish is 100 meters, or 328 feet. The buffer for this sensitive habitat as defined by COGCC State consultation is 300 feet. It is also likely that riparian areas wider than 100 meters would be regulated under Section 404 of the Clean Water Act and fall under USACE jurisdiction. We encourage BLM to dispense with such arbitrary differences because they create significant duplication and recommend that BLM adopt measures that are consistent with those used by other entities which oversee mineral development. We encourage the BLM to adopt the existing standards used by the COGCC.

Chapter 2, Table 2.2, Page 2-47, Row 6: *“STIPULATION CRV-NSO-15: Fish-Bearing Streams. Prohibit surface occupancy and surface-disturbing activities within 100 meters (328 feet) of all fish-bearing streams. On streams where the riparian corridor width is greater than 100 meters (328 feet) from the stream edge, prohibit surface occupancy and surface-disturbing activities within the riparian zone.”*

COMMENT: The BLM's Preferred Alternative (Alternative B) proposes expanding the scope and increasing the distance for surface occupancy and surface-disturbing activities restrictions near fish-bearing streams. The current No Surface Occupancy (NSO) buffer for priority habitat for fish is 100 meters, or 328 feet. The buffer for this sensitive habitat as defined by State consultation is 300 feet. Moreover, riparian areas wider than 100 meters would likely be regulated under Section 404 of the Clean Water Act and fall under USACE jurisdiction. BLM's proposed expansion seems to be an arbitrary difference demonstrating that the agency has not taken into account existing guidelines used by other entities which oversee mineral development. In the interest of consistency, we encourage the BLM to adopt the existing standards used by the COGCC.

Elk Winter Range Map, Figure 3.2.6-3/Mule Deer Winter Range Map, Figure 3.2.6-5: The BLM's maps for both Elk and Mule Deer Winter Range are inconsistent with the map layers used by COGCC to require consultation with the CPW.

COMMENT: The reason for these discrepancies is unknown; but, since the CPW has jurisdiction

over wildlife populations, we encourage BLM to adjust its maps to make them uniform with the maps used by the COGCC in the interest of consistent application of wildlife stipulations and constraints between the State and BLM.

Greater Sage-grouse Habitat, Figure 3.2.7-1: The BLM's map for Greater Sage-grouse Habitat includes expands areas of '*occupied habitat*' far beyond the combined sensitive habitat and RSO designations for Greater Sage-grouse used by COGCC or the combined breeding and winter ranges available from CPW.

COMMENT: We encourage the BLM to adjust its map to make it consistent with the maps used by the COGCC. Alternatively, BLM needs to provide viable scientific data to justify these inconsistencies.

Bighorn Sheep Range, Figure 3.2.6-6: The BLM's Bighorn Sheep Range map most closely matches (but includes more area than) the CPW map of Overall Range for Bighorn Sheep. The BLM's map covers a substantially larger area than the COGCC maps for sensitive areas and RSOs.

COMMENT: We encourage the BLM to adjust its Bighorn Sheep Range map to make it consistent with that used by the COGCC.

Chapter 2, Table 2.2, Page 2-37, Row 2: "Action: Designate the following as priority habitats: perennial water sources (streams, rivers, lakes, ponds, springs, seeps, wetlands, wet meadows, bogs, and fens), riparian areas, intermittent streams and ponds, and ephemeral/seasonal waters."

COMMENT: BLM proposes designating several aquatic features that may not support fish as 'priority habitat' for fisheries. Wet meadows, intermittent streams and ponds, and ephemeral/seasonal waters do not support persistent fish populations within them. These aquatic features are components of a hydrologic system that may influence habitat where fish can and do exist. The RMP also notes the "not all of the perennial aquatic habitats [in the CRVFO planning area] support fish." (Chapter 3, Page 3-58) Given that wetlands are already protected under federal law (Clean Water Act, Section 404 [40 CFR Parts 22, 230-233]), we strongly disagree with the proposed broad-brush designation of 'priority habitat' for fisheries.

Chapter 2, Table 2.2, Page 2-39, Row 2: "Restrictions on Use: **STIPULATION** CRV-TL-7: *Coldwater Sport and Native Fish (brown, brook, rainbow, and nonnative cutthroat trout, mountain whitefish, mottled sculpin)*. Prohibit in-channel stream work in all occupied trout streams during appropriate spring and fall spawning periods of March 1 to August 1 for rainbow and cutthroat trout and October 1 to November 30 for brown and brook trout to protect redds (egg masses) and emerging fry. (Refer to Appendix B) (See Figures 2-10, (Alternatives B and C, and 2-11 (Alternative D) in Appendix A")

COMMENT: The timing limitations for in-stream work combines fish species. It is preferable that species-specific spawning seasons be defined. For example, the combined TL for rainbow and cutthroat trout is proposed for March 1 to August 1. Average cutthroat trout spawning is June - August, while average rainbow spawning is April - June. The BLM's combined restriction is overly broad and creates potential for delays that may not be necessary if only a single species is

present. We strongly encourage the BLM to apply its TLs to individual fish species, rather than grouping them together.

Big Game Ungulates Objective – Chapter 2, Table 2.2, Page 2-40, Row 3: *“Minimize big game stress and disturbance from surface occupancy and surface-disturbing activities on winter ranges, winter concentration areas, severe winter ranges, migration corridors, and birthing areas.”*

COMMENT: The BLM describes protection of migration corridors for big game. However, BLM has failed to provide a description or map of these corridors, nor has the agency provided an adequate explanation of how such corridors are defined. This lack of information needs to be rectified in the FEIS.

Chapter 2, Table 2.2, Page 2-41, Row 4: *“Action: At the request of CPW, and with concurrence by the BLM authorized officer, close areas to human activity and dogs on an area-specific basis during severe winter weather conditions as defined by a combination of factors including snow depth, snow crusting, daily mean temperatures (long periods of cold temperatures), and concentrations of animals.”*

COMMENT: BLM proposes to close specific areas at the request of CPW based on severe winter weather conditions. While the factors listed are valid to consider (snow depth, snow crusting, daily mean temperatures, and animal concentrations on winter range), industry lacks the ability to know where our operations may be affected. BLM fails to provide a clear process for determining triggers for such a closure. This BMP would be more valid if the agencies used the aforementioned weather conditions to quantify a percentage of anticipated animal loss. This would also prevent inconsistent application caused by personal evaluations.

Chapter 2, Table 2.2, Page 2-47, Row 3: *“Action: Protect BLM fish-bearing streams or stream segments by actively seeking minimum in-stream flow protection and, for lakes, minimum pool depths, where opportunities arise.”*

COMMENT: BLM proposes to protect fish-bearing streams on BLM surface by seeking minimum in-stream flow protection and also minimum pool depths for standing water bodies where opportunities arise, but fails to describe how such protection will be implemented. Given the breadth of water features included in the description of "critical habitat" on page 2-37, it is impossible to evaluate the potential operational impact without further information. We encourage the BLM to eliminate this proposed action or provide a more definitive framework for implementation.

Chapter 2, Table 2.2, Page 2-49, Row 3: *“Restrictions on Use: STIPULATION CRV-CSU-15: Sensitive Amphibians (Great Basin Spadefoot, Boreal Toad, Northern Leopard Frog, Wood Frog). Apply CSU restrictions within an 800-meter (0.5-mile) buffer around all identified breeding sites. (Refer to Appendix B.) See Figure 2-6 in Appendix A.”*

COMMENT: We cannot evaluate potential impacts of the 0.5 mile setback for identified breeding sites for sensitive amphibians because these locations are not available except the map the RMP

references, which makes the locations indiscernible. The BLM should provide greater detail on the areas covered as “identified breeding sites.”

Chapter 2, Table 2.2, Page 2-54, Row 1: Restrictions on Use: STIPULATION CRV-TL-8: Bald Eagle Nest Sites and Winter Roost Sites. *Prohibit surface occupancy and surface-disturbing activities within a 0.5-mile buffer around bald eagle nest sites and winter roost sites to avoid disturbance during seasonally critical behaviors and activities. Protect nesting, including nest-centered courtship, nest attentiveness and construction or repair, egg-laying, incubation, feeding of nestlings, and post-fledging use of the nest vicinity by juveniles. (Refer to Appendix B.) See Figures 2-10 (Alternatives B and C) and 2-11 (Alternative D) in Appendix A.”* The BLM proposes TL dates for Nest Sites from October 15 to July 31 and for Roost Sites from November 15 to March 15.

COMMENT: The U.S. Fish and Wildlife Service has issued guidance for avoiding impacts to bald eagles. The guidance includes a 660 foot (200 meter) buffer and use of landscape buffers for oil and natural gas drilling and refining and associated activities. (National Bald Eagle Management Guidelines) We recommend that BLM follow the USFWS standards in developing its stipulations or clearly explain all differences in the FEIS.

Bats - Chapter 2, Table 2.2, Page 2-58, Row 1, 2 and 3: The BLM proposes NSO and TL stipulations to protect special status bat species.

COMMENT: Regarding the limitation on disturbance for bats, we have the same comment on here as on sensitive amphibians. More information is needed on maternity sites and hibernation sites in order to understand and follow the proposed stipulations. We therefore cannot evaluate the potential impact to our operations. We recommend that BLM delete the bat stipulations or, at a minimum, provide more information regarding their scope and implementation.

Chapter 3, Section 3.2.6: Northern Leopard Frog

COMMENT: The BLM’s information regarding the current status of the northern leopard frog in the CRV DRMP/EIS is outdated. The BLM suggests that the northern leopard frog is currently a candidate species under the Endangered Species Act (“ESA”). Since the publication of the CRV DRMP/EIS the USFWS determined that the northern leopard frog is not warranted for listing and, thus, is no longer considered a candidate species.

APPENDIX B – CLOSURE AND STIPULATIONS TO OIL AND GAS AND OTHER SURFACE DISTURBING ACTIVITIES

GENERAL COMMENT:

As pointed out earlier in these comments, Section 363 of the Energy Policy Act of 2005 requires BLM to ensure that the least restrictive stipulations are utilized to protect the resource values to be addressed. Given the duplication and overlap of the stipulations identified, it is crucial for BLM to re-evaluate its use of stipulations to demonstrate compliance with existing laws, policies and regulations.

We strongly object to BLM's broad-brush approach of applying no surface occupancy stipulations without proper justification and explanation. For example, with respect to species listed under the Endangered Species Act, no mention is made regarding whether species' recovery plans have been adopted and whether they would accommodate careful oil and gas development. Moreover, the Endangered Species Act provides adequate protection for all listed species that could be impacted by a project proposal. Rather than arbitrarily imposing numerous, overlapping no surface occupancy stipulations to protect listed species, we recommend that BLM utilize a notice to lessee for leases issued in identified listed species habitat apprising the lessee that a biological opinion would be required for any project believed to pose a threat to the species.

Additionally, many other stipulations needlessly overlap or are redundant. For example, we question the use of both NSO stipulations and timing limitations in the same areas, such as those imposed for raptors and fish-bearing streams. Clearly in such cases, the least restrictive stipulation should be adopted.

CRV NSO 8 – Core wildlife areas

COMMENT: The DEIS and its supporting documents offer no explanation regarding how these core areas were determined and for which individual species. We recommend that BLM provide the scientific data used to determine where and why such core areas have been identified and for what species.

CRV NSO 34 Stipulation - .5 mile buffer to protect identified breeding sites for amphibians

COMMENT: Amphibians almost exclusively occupy wet areas. The need for a .5 mile buffer is unclear since amphibians do not typically occupy dry areas beyond their wet habitat and only migrate away from wet areas during rain events. They would desiccate in the buffer surrounding their habitat and have no occupancy in the buffer. This stipulation should only protect the habitat much like a wetland and have a buffer similar to the USACE wetland delineation standards.

CRV NSO 43 – Lands with Wilderness Characteristics

COMMENT: As stated earlier in these comments, we object to the use of NSO in these areas in Alternative C because Congress and DOI have yet to approve a definition for LWCs. At this point in time, these areas must continue to be available for other uses until designated wilderness by Congress.

GS TL 7 TL CO 19 (BLM 1999b) – Ferruginous Hawks

COMMENT: The one-mile buffer for the Ferruginous Hawk appears excessive when compared to the ½-mile buffer for Golden and Bald Eagles which have a specific Act protecting them beyond the Migratory Bird Treaty Act. We recommend a ½-mile setback be utilized.

CRV TL 11 – Greater Sage-grouse 4-mile radius

COMMENT: We are unaware of any reliable scientific basis for a 4-mile radius around occupied nests. BLM is proposing management schemes that go far beyond what has been deemed necessary to protect the Sage grouse in other States, such as Wyoming, Nevada and Utah.

CRV TL 12 – Sharp-tailed Grouse

COMMENT: BLM has failed to demonstrate the need for the same or similar restrictions on the Sharp-tailed Grouse as have been imposed for the Greater Sage-grouse. No scientific evidence has been presented that indicates the decline of this species. Further, this species does not have a USFWS determination for protection at this time and protections should remain commensurate with the status of the species.

CULTURAL RESOURCES

CRV-NSO-37 – HERITAGE AREAS, .25 mile

CRV-NSO-38 – HISTORIC PROPERTIES, 100 meters

CRV-NSO-39 – HISTORIC PROPERTIES, 200 meters

COMMENT: We question the need for these NSO stipulations because a CSU stipulation would provide the same level of protection without the necessity of the exception process in situations where it would be warranted. This approach would reduce the unnecessary paperwork and delay associated with the exception process. Therefore, we recommend that the FEIS utilize a CSU stipulation in place of the no surface occupancy stipulations. In addition, we recommend that BLM provide clarification of its proposed objective (page 2-60) regarding the preservation of cultural resources and their associated landscape. BLM fails to identify the criteria to be used to determine how the landscape will be assessed or identified for protection.

VISUAL RESOURCES

Impacts from Visual Resource Management, PAGE 4-571. *Managing visual resources on public lands would have an impact on fluid mineral activity as mitigations would be developed that would modify proposed oil and gas operations when an application, such as a NOS or APD, is received by the BLM. Based on the VRM class, mitigations would be developed consistent with the guidelines of the VRM classes and the federal laws and regulations and standard lease terms and conditions. Within the CRVFO, there are currently 17,100 acres listed as VRM Class I; 230,100 acres as VRM Class II; 113,700 acres as VRM Class III; and 144,200 acres as VRM Class IV. VRM Class I lands are managed to retain a natural landscape. An area designated VRM Class II would allow for minimal change to its landscape character, thus oil and gas activity would be very restricted, or activities may need to be redesigned or moved depending on the proposed operation. This restriction would preclude surface drilling and surface facilities, unless these were to meet the VRM objective.*

CRV-NSO-41 – SLOPES >30% AND HIGH SENSITIVITY AREAS IN CLASS II

CRV-NSO-42 – CLASS 1

COMMENT: Upon comparison of the VRM maps and the oil and gas leasing and potential maps, it is clearly evident that the visual restrictions proposed under Alternatives B and C overlap with

existing leases and development. In accordance with existing statute as interpreted by the Interior Board of Land Appeals (IBLA), we remind BLM that it does not have the authority to impose new visual constraints on pre-existing leases and development. As such, BLM is also prohibited from attempting to use conditions of approval to accomplish these new restrictions. We refer BLM to *Southern Utah Wilderness Alliance, et. al.*, 144 IBLA 70, 84-88 (1998) which has made it clear that BLM cannot impose visual resource objectives inconsistent with lease rights and that BLM must fully consider existing oil and gas operations and leases when developing VRM objectives during the planning process.

BLM's proposed VRM management restrictions under Alternatives B and C are unnecessarily restrictive and would prohibit existing lessees and operators to develop projects that require rights-of-way or facilities within newly designated Class I and Class II areas that encroach upon lands where operators have already established valid existing rights. Moreover, it is not enough to allow for exceptions to be granted for temporary drilling rigs if semi-permanent structures would be prohibited.

We strongly object to BLM's attempts to expand VRM Class II restrictions in view of the statements on pages 2-65 and 4-571 that BLM intends to prohibit all surface disturbing operations in Class II areas. We recommend that BLM reconsider its visual objectives to ensure they do not compromise valid existing lease rights and ongoing projects.

RIGHTS-OF-WAY

Exclusion/Avoidance Areas: Chapter 2-85-86, *Designate 169, 000 acres as Avoidance and 39,300 acres of Exclusion Areas under Alternative B and 162,000 acres of ROW as Avoidance Areas and 50,600 acres as Exclusion Areas under alternative C.*

COMMENT: BLM has failed to provide justification or any scientific basis for the proposed increase in ROW Avoidance Areas or Exclusion Areas. This significant increase could seriously impact a company's ability to obtain the ROWs needed to construct or complete a project on an existing lease. We are concerned by the absence of any provision that would allow a project proponent to work with BLM to select the most reasonable ROW needed for a project, both in terms of environmental concerns and economic feasibility and viability. We recommend that in addition to reconsidering the placement of avoidance and exclusion areas under all alternatives, BLM needs to develop exception criteria which would allow reasonable negotiation for future ROWs.

CONCLUSION

In closing, the undersigned trade organizations have found fundamental flaws in the CRV DEIS which require correction and improvement before the DEIS and Plan are finalized and a Record of Decision is issued. First and foremost, BLM failed to comply with NEPA's most basic tenet by omitting the scientific and socio-economic validation required to demonstrate the agency has made "*informed decisions*" regarding the broad application new, highly restrictive lease stipulations under all alternatives considered in detail except Alternative A, Current Management.

As pointed out in our comments, BLM's approach of broadly modifying existing management without providing the public and stakeholders with the scientific analysis upon which such decisions were based constitutes a direct violation of NEPA. These significant flaws extend to all sections of the DEIS, ranging from alternative development; socio-economic analysis; air quality analysis and mitigation; inadequate RFD scenario; designation of core wildlife areas, stipulations and mitigation; as well as the broadened application of VRM classes I and II and the expansion of right-of-way avoidance and exclusion areas.

We strongly recommend that BLM correct these flaws before finalizing the RMP Revision by incorporating the missing scientific information which demonstrates that BLM has the basis for making new planning decisions and by developing a new preferred alternative based upon the range of alternatives included in the DEIS that provides adequate opportunities for future oil and gas development along with other multiple uses within the planning area as directed by FLPMA.

If BLM finds it cannot make these requisite changes to the DEIS by utilizing the four existing DEIS alternatives, we support the comments of Mesa County that a redraft of the entire planning document needs to be undertaken to correct the inadequate socio-economic analysis and the inadequate range of alternatives by developing and analyzing a more realistic preferred alternative which takes the views of the counties into full consideration.

We appreciate this opportunity to provide you with our concerns and recommendations. Please feel free to contact us if you have questions or would like to discuss our recommendations in greater detail.

Sincerely,



Claire Moseley
PLA



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David Ludlam
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CC: Helen Hankins, CO BLM State Director
Steve Bennett, DSD CO BLM