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**RE: DRAFT CHAPTER 4 ANALYSIS : LITTLE SNAKE RESOURCE AREA RESOURCE
MANAGEMENT PLAN ENVIRONMENTAL IMPACT STATEMENT**

Dear John and Jeremy,

We thank the Little Snake Field Office again for the opportunities to comment early and often in this planning process. We realize that this opportunity is in addition to the formal public comment period once BLM completes and publishes the full Draft Environmental Impact Statement (DEIS) later this year. We plan to offer a full set of comments on the DEIS at that time.

What is unique about this set of comments, even under the limited timeframe with which we have had to review this document, is that the Little Snake Field Office has the opportunity to correct several major shortcomings in the analysis before completing the DEIS. A full and accurate description of social, environmental, and historical consequences at the DEIS-stage is critical to fully informing and involving the public in this planning process.

These comments begin with offering some overall recommendations that should be carried into the DEIS for all resources and across all alternatives. Through the comment form provided (attached), we offer additional comments that immediately stood out as needing further analysis or clarity in the DEIS.

ANALYSIS OF IMPACTS FROM OIL AND GAS DEVELOPMENT ON RESOURCES

One of the main shortcomings in the Draft Chapter 4 in analyzing impacts of oil and gas is that the analysis relies primarily on acres disturbed (or, in some cases, acres available for leasing) as the sole downside of development. While habitat fragmentation is generally defined and consequences of fragmentation are listed in broad terms, this Draft Chapter 4 states that actual “impacts from fragmentation or loss and displacement” caused by oil and gas development and other surface disturbance would depend “on the type, amount, and location of activity.” (p. 4-30). That begs the question: What “type, amount, and location” of surface disturbance and disruptive activities does this RMP

permit based on a Reasonably Foreseeable Development Scenario? We believe that answering this question is essential for the DEIS to meet the requirements of NEPA. The DEIS must move beyond describing impacts of oil and gas and other development in terms of simply acres disturbed/reclaimed over the life of the plan and look at the overall network of roads, pipelines, compression stations, etc. associated with each predicted well pad.

Just as BLM approximates the total surface acres disturbed, so could BLM approximate and analyze the total fragmentation of such disturbance across the landscape. To do this, BLM could analyze multiple well development scenarios that distribute wells stepping out of existing fields primarily in the “high potential” areas and other scenarios where BLM could analyze an appropriate proportion of wells and roads constructed in “one or two” new fields within the RMPPA (an approximation suggested by an industry representative at a NWCOS meeting). Other types of fragmentation should be included such as utility corridors and communications facilities.

BLM can provide information on these impacts with relative ease using existing GIS, Colorado Division of Wildlife habitat data, and simulated development modeling scenarios. Beyond habitat fragmentation, this approach will also benefit analysis for other resources such as soils and cultural resources where BLM only provides tables of acres available for oil and gas leasing and open to OHV (*see, e.g.*, Tables 4-2 to 4-9). Such analysis would provide additional information such as road mileage and actual surface area disturbed providing necessary detail for the DEIS.

Through numerous scientific publications, The Wilderness Society (TWS) demonstrates the feasibility of spatial analysis and its applications for management planning in the context of oil and gas development (*See* *Fragmenting Our Lands: The Ecological Footprint from Oil and Gas Development*, TWS 2002). TWS has since published other scientific reports demonstrating the usefulness and feasibility of spatial analysis, oil and gas build-out scenarios, and landscape fragmentation metrics BLM must use to analyze impacts and guide conservation measures in management planning (*See* *Wildlife at a Crossroads: Energy Development in Western Wyoming*, TWS 2005; *Drilling in the Rocky Mountains: How Much and at What Cost?*, TWS 2004). We attach and incorporate these publications and their recommendations for BLM impact analysis in management planning. In addition to providing useful information and guidance on how federal agencies can perform such analysis with relative ease and existing information, these publications point out that the techniques described therein must be utilized in order for the management plan DEIS to meet the requirements of NEPA. We again urge BLM to adopt these practices in providing the public with a full accounting of the impacts of development. Unless and until BLM does a fragmentation analysis of different oil and gas development scenarios, the BLM cannot, with any degree of certainty, determine that there will be no significant impacts (or any impacts) to fish and wildlife, special status species, wild horses, etc. under any of the development alternatives.

Other overall concerns with the Draft Chapter 4 treatment of oil and gas impacts includes the following:

- Impacts from geophysical exploration should be specifically addressed across all resources and alternatives. Such analysis should include direct impacts to resources such as vegetation, cultural, and paleontological resources, as well as indirect impacts such as inducing proliferation of OHV routes (especially in areas “open” or “limited”).
- Impacts to air quality should address both emissions and particulate matter.
- Impacts from produced water from oil and gas development should be analyzed in terms of both water quantity and quality.
- Impacts to soils and water should be based on actual estimate of roads, well pads, and other facilities contributing to surface run-off. Fragmentation and route density analysis (described above) would benefit this analysis.
- Impacts of oil and gas development on split-estate lands must be analyzed and described in both fragmentation analysis and in surface and subsurface resource sections of the DEIS.
- Impacts of oil and gas stipulations targeted to provide protections for wildlife habitat must be analyzed in greater detail beyond simply saying that “more” or “less” protections are available across alternatives.
- The ramifications of existing leases, including that proportion which is held in production, is information that is readily available to BLM and should be described for each resource (e.g. percentages of habitat types already leased with or without stipulations protecting a given resource and percentages held by production).
- The DEIS must provide a full accounting of Appendix X in waving, excepting or modifying lease stipulations including its application, if any, to existing leases. The DEIS must also provide a full description and analysis of any mitigation measures BLM believes will be utilized in lieu of waiving or excepting lease stipulations (see below).

ANALYSIS OF IMPACTS FROM OFF HIGHWAY VEHICLE USE ON RESOURCES

The Draft Chapter 4 describes a “transportation and access plan” as mitigating impacts of OHV. Such a plan must be included in the DEIS along with BLM’s best available representation of existing routes and plans and deadline to complete a route inventory for the remainder of the RMPPA. BLM’s responsibility to complete travel planning as part of an RMP, including designation of routes, is confirmed by the agency’s internal guidance (IM No. 2004-005), which states:

At a minimum, each RMP will divide planning areas into OHV area designations that are open, limited or closed.

[...]

Selection of a network of roads and trails should be performed for all limited areas in each RMP. This requires establishment of a

process that includes selecting specific roads and trails within the limited area or sub-area and specifying limitation(s) placed on use.

While this IM also permits some delay if designation of all routes is truly not feasible, it also describes examples of the barriers that could prevent the BLM from completing this process as part of an RMP. In addition, any failures to fully complete route designation will still require completion of as many areas as possible and short-term maintenance to protect sensitive resources.

BLM's official guidance on travel planning (IM NO. 2004-005) also identifies the importance of a "well-designed travel system" because it will "direct travel away from sensitive areas, yet provide quality recreational activities and access for commercial and recreational needs." Unless BLM first recognizes the many values present in an area, the agency cannot make travel-planning decisions that comport with its obligations and authority to protect public lands and resources. Since BLM is relying on Appendix XX to trigger travel management in areas designed "limited to existing routes" BLM must, starting with the DEIS, describe the resources in conflict with each area in detail and identify existing routes in this plan. This information will provide an essential baseline for analyzing impacts for the DEIS and provide a baseline for triggering adaptive management.

In addition to providing greater detail on the overall impact and inventory of existing routes, BLM should address the following issues across all resources:

- Impacts of cross-country travel across all resources should clearly describe the density, pace and scale at which BLM expects route proliferation.
- Impacts of cross-country travel should be analyzed in areas beyond those which BLM permits this destructive activity to occur and include areas where either cross-country travel is likely to happen (i.e. areas that are limited to "existing" routes) or areas where BLM management and enforcement are unable to prevent this from occurring, which should include areas where BLM has designated as "closed" to OHV.
- In Special Management Areas, especially where OHV is allowed within the area, BLM should analyze OHV use and compliance with used designations. There will be impacts to soils, water, wildlife, etc., even in area BLM plans to limit disturbance to designated routes (e.g. Sandwash Basin impacts of designated routes on horses). These impacts cannot be ignored.
- General impacts of limited OHV use are often overlooked where impacts are described in areas that are "open" (to cross-country travel) and impacts of "limited" travel generally "protects" resources. *See e.g.*, Soils p. 4-5 lines 28-34; p. 4-7 lines 7-10. Consequences of "limited" OHV must be fully described across all resources.
- As described under the impacts of oil and gas development section above, BLM should use modeling, metrics and GIS tools in planning and analyzing impacts of OHV and the overall transportation infrastructure. *See attached TWS publications.*

- Permitting competitive OHV events does not benefit resource conditions.

ANALYSIS OF MITIGATION MEASURES

BLM must provide greater detail and actual analysis of mitigation measures providing the basis for reducing impacts to resources. Once BLM chooses to rely on mitigation measures described as ameliorating expected impacts or providing the underpinning for a finding of no significant impact, it is imperative that BLM discuss the mitigation measures “in sufficient detail to ensure that environmental consequences have been fairly evaluated...” *Communities, Inc. v. Busey*, 956 F.2d 619, 626 (6th Cir. 1992). Simply identifying mitigation measures, without analyzing the effectiveness of the measures, violates NEPA. Agencies must “analyze the mitigation measures in detail [and] explain how effective the measures would be . . . A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.” *Northwest Indian Cemetery Protective Association v. Peterson*, 764 F.2d 581, 588 (9th Cir. 1985), *rev'd on other grounds* 485 U.S. 439 (1988).

For most of the mitigation efforts that BLM proposes in the Draft Chapter 4, BLM has not provided any information to support their efficacy. For example, BLM relies on mitigation measures (“BMPs”) to diminish acknowledged environmental impacts of oil and gas development on numerous important resources, yet the Draft Chapter 4 provides no clear description on the actual mitigation practice to be utilized or the efficacy of the mitigation practice. Other examples of where the Draft Chapter 4 fails to either describe the actual mitigation measure or its effectiveness, or both, include the following:

- Soils: “Project design and proper construction can ensure water drainage from the hardened surfaces would not result in significant impacts.” (p. 4-7) “Reclamation activities would reduce short-term soil loss and eliminate long-term soil losses.” (p. 4-9)
- Water: “[B]est management practices, standard stipulations, and conditions of approval would reduce the extent of these impacts.” (p 4-17).
- Vegetation: “Mitigation measure(s) were incorporated in the analysis when possible to reduce the adverse effects of significant impacts to vegetation, rangelands, and riparian/wetland areas.” (p. 4-20) “Implementing BMPs within the RMPPA would reduce the effects of surface disturbance and help maintain existing vegetative diversity, ecological health of rangelands, forests , woodlands, and riparian/wetland functioning conditions by retaining existing vegetation and erosion rates.”(p. 4-29).
- Wildlife: “Existing leases in the RMPPA might not provide the specific mitigation measures.... COAs for APDs could be applied. These would be based on site-specific analysis and would establish specific necessary mitigation measures not covered by stipulations for resource and environmental protection.” (p. 4-31).

- Cultural Resources: “Through compliance with Section 106, there would be no significant impacts to cultural resources from federal undertaking such as oil and gas development, ...” (p. 4-81).

BLM must describe mitigation measures for each resource value to a degree of specificity that allows meaningful review and provide adequate information to demonstrate the effectiveness of the mitigation measures. *See, e.g., Idaho Sporting Congress v. Thomas*, 137 F.3d 1146, 1149 (9th Cir. 1998) (NEPA intended to provide sufficient information to the public and the agency to allow for the integration of environmental concerns in decision-making).

In the worksheets (attached) we provide more detailed information on specific areas BLM should focus in preparing the DEIS. In addition to the specific request in the worksheets, we look forward to a DEIS that incorporates the overarching concerns and shortcomings outlined above in providing a more complete picture of the impacts facing important resources and environmental concerns.

If you have any questions or would like to receive additional information on the planning and impact analysis methodologies outlined in the attached publications, do not hesitate to call me at 824-5241.

Sincerely,

Reed Morris
Public Lands Advocate
Colorado Wilderness Network
Craig, Colorado

LITTLE SNAKE CHAPTER 4 COMMENT FORM

NAME	SECTION	PAGE	PARA-GRAPH	LINE	COMMENT
	Approach to Analysis	4-2		14-15	Clearly define “short term” as “begin and end” within 5 years does not include reclamation efforts that would take 5 years or more to be considered fully rehabilitating an area to its condition prior to disturbance.
	Impact Analysis Terminology	4-3		6	Clearly state that “public lands” includes federal minerals—management actions proposed in the alternatives also involve split-estate lands.
	Availability of Data	4-3		36	A major type of unavailable data includes that from an Air Quality Baseline and Analysis Report—BLM should clearly state the decision, if it has been decided, not to provide information from such a study in the EIS.
	Soils	4-4 through 4-16			BLM should describe impacts, in terms of total surface disturbance and location based on build-out scenarios, of oil and gas impacts based on the RFD. Oil and gas is not even mentioned in this broad overview of impacts to soils. In describing impacts in alternatives, BLM should describe surface disturbance from build-out scenarios and transportation across the resource area over the life of the plan. Relying on simply acres available for leasing and areas open only to cross country travel is insufficient.
	Soils	4-7 (4-10)		7-10 (2-4)	BLM must clearly state the assumption that OHV designations in “limited” would limit OHV use to areas already “hardened” by existing routes. This assumption ignores that route proliferation is likely to occur. <u>For all resources</u> , BLM must analyze the effects of route proliferation due to BLM’s management decisions to leave areas open to limited OHV or for lack of enforcement.
	Soils	4-12		31-35	BLM must clearly state the assumption. The apparent assumption is that restricting (not prohibiting) oil and gas surface disturbance would result in no disturbance of soils or vegetation beyond natural rates. This is obviously flawed.
	Soils				Need to analyze impacts to biological crusts.
	Water	4-16		32	“proper design” of roads must be clearly described (what design features) and BLM must provide analysis for these design features and their effectiveness for reducing impacts to water resources. BLM cannot merely state that “proper design” will per se reduce impacts to water resources to a degree that renders them insignificant without more. <u>BLM must analyze all mitigation measures across all resources in this manner.</u>
	Water				BLM must analyze impacts of produced water from natural gas development in

					terms of water quality and water quantity. This should include impacts to domestic water uses.
	Water	4-17		28	Need to provide greater detail of how surface-disturbing activity increases erosion, sedimentation, etc, affecting water quality. For example, how much sedimentation would be expected for an oil and gas road, properly mitigated, crossing an ephemeral water source. Further, through development scenarios, BLM can describe how many such stream crossings would be expected over the life of the plan. Such description is needed in analyzing mitigation measures and understanding the full impact of total surface disturbance
	Vegetation	4-20		13	BLM must describe and analyze mitigation measures.
					BLM should clearly state the assumptions and significance criteria for sagebrush. It appears the significance criteria is 5-10 years to “stabilize the site from disturbance” and not to actually restore vegetation to pre-disturbance levels which would take far longer (the assumption is in excess of 20 years). If follows the vegetation mitigation is only designed to mitigate impacts to soil resources (“stabilize”) rather than actually restore vegetation. This should be clearly stated, and its ramifications carried out through the wildlife and sensitive species sections dealing with sagebrush obligate species. Simply put, their habitat will not be restored anywhere near the 5-10 year period analyzed as the significance criteria. The significance criteria for vegetation should be related to the period for restoring the vegetation, not the period for rehabilitating surface stabilization.
	Vegetation	4-23		20-31	More detail need on how restricting surface disturbance “helps” vegetation (how much? What happens if the entire lease is within an important habitat type? What sort of lease stipulations are included? How many existing leases are in existence that do not fall into this category?)
“	Vegetation	4-24		15-16	Describe how timing limitations reduce the effect of surface disturbance.
	Vegetation	4-25		9	Describe how reducing surface disturbance increases vegetation diversity. Surface disturbance would include vegetation loss and contribute to introduction and spread of noxious weeds, it is unclear what BLM’s assumption is for this point.
	Vegetation	4-29		1	BMPs must be described and analyzed
	Vegetation	4-29		40	BLM must clearly state the assumption and basis for the statement that authorizing competitive OHV events “could reduce surface disturbance and/or maintain existing vegetation.”
	Wildlife	4-31		29	Describe the “necessary mitigations” that could be applied. To what portion of leases already held would such mitigation measures apply.
		3-32		38-40	BLM should describe impacts associated with energy development on Mule Deer. See new studies being performed at Pinedale.

		4-37		38	"effects to big game" should not be "lumped." BLM should describe, through special analysis, the likely development scenarios and described impacts to each big game type across all alternatives.
		4-38		30	Describe how simply limiting OHV use to existing routes avoids impacts to habitat. This assumes no route proliferation. If that is BLM's assumption, while flawed, it should be clearly stated.
					BLM must analyze the relative importance of habitat on isolated tracts of BLM land in central and eastern Moffat County and in Routt County.
		4-44			BLM must fully analyze the implications of Appendix X, which, as currently written, could justify the waiver, exception, or modification of all oil and gas leases.
		4-46		45	BLM must clearly describe the assumptions for the determination that Alternative D would result in 25% reduction in wells, and whether that assumption considers existing leases and the proportion of which are already held in production.
	Special Status	4-50		28	BLM must clearly describe the assumptions that, since oil and gas development is permitted and undergoes site-specific NEPA, how that translates into relatively lesser impacts (compared to OHV) to habitat.
					BLM must provide better analysis of the stipulations, and in such analysis provide information that is grounded in spatial analysis on the benefits to habitat for each stipulation. Analysis should also include discussion on the role of existing leases and habitat.
		4-61		24	BLM must fully analyze the implications of Appendix X, which, as currently written, could justify the waiver, exception, or modification of all oil and gas leases.
					BLM should describe that seasonal timing limitations for sensitive species provides no long-term habitat protection. The overall fragmentation of habitat should be described through spatial analysis.
	Wild Horses				BLM must fully analyze the implications of Appendix X, which, as currently written, could justify the waiver, exception, or modification of all oil and gas leases.
					BLM should describe the level of existing leases in the HMA. Since nearly the entire HMA is leases and industry promises that oil and gas development in Sandwash looks promising, simply stating the acres available for leasing in the tables hardly provides a look at the impacts oil and gas will have on this resource.
	Cultural	4-81		27	BLM must describe how BLM will comply with NHPA §106, and how such compliance will reduce impacts to cultural resources below significance.
					BLM must describe the impacts from access and transportation route proliferation on cultural resources leading to unauthorized collection, vandalism, etc.

