

January 9, 2008

**Via e-mail (GJFO\_mail@blm.gov) and overnight mail (with attachments)**

Grand Junction Field Office  
Bureau of Land Management  
2815 H Road  
Grand Junction, CO 81506

Re: Scoping Comments – Grand Junction Resource Management Plan Revision

Please accept and fully consider these scoping comments on behalf of the organizations identified below. The membership of these organizations includes hundreds of thousands of members and supporters in Colorado and nationally who care deeply about the management of our public lands. We appreciate this opportunity to comment and appreciate the Bureau of Land Management’s commitment to addressing the circumstances and values related to management of the public resources within Mesa, Garfield, Montrose, and Delta Counties. These comments are submitted in addition to our detailed proposals for designation of special management areas, inventory of proposed wilderness areas, and comments on the Gateway Recreation Area, which are being submitted separately.

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**1. GENERAL CONSIDERATIONS**

a. Public Participation

We encourage BLM to maximize public involvement in preparation of the revised Grand Junction RMP. In addition to the public comment periods required by the National Environmental Policy Act (NEPA) and BLM’s regulations, there are other opportunities throughout the planning process for public involvement, which are used by many BLM offices. Public involvement allows the public to provide useful information and bring concerns to BLM’s attention throughout the planning process. In its scoping notice, the Grand Junction Field Office already stated its intent to make public participation and collaboration an integral part of the planning process and we commend BLM on this approach. However, we would also encourage the BLM to provide for public input into the management situation analysis and identification of planning issues, and on a preliminary range of alternatives prior to preparing the Draft RMP, steps other BLM offices have taken to expand opportunities for public comment.

The Grand Junction Field Office has identified the need to ensure sufficient data is available. In this context, we would also note that other BLM offices have made inventory data available to the public to assist in identifying new data needs and also made base data available for public use, and encourage the Grand Junction Field Office to take similar action. By way of example, along with its release of the Draft RMP, the BLM’s Arizona Strip Field Office provided zipped GIS files for all data layers needed to create the maps contained in the Draft RMP (and can be viewed on-line at <http://www.blm.gov/az/GIS/files.htm#strip>). The server space required for this operation is minimal and without this information, effective public participation in this process is severely hampered. This type of public participation is also consistent with the BLM’s Land Use Planning Handbook (H-1601-1), which states that, “Documentation supporting the AMS [analysis of the management situation] should be maintained in the field office for public

review” (Section III.A.4) and that, “Alternatives should be developed in an open, collaborative manner, to the extent possible” (Section III.A.5).

Making analyses available before issuing the Draft RMP is another excellent way to increase public understanding of and participation in the RMP revision. The Kemmerer (Wyoming) Field Office, for example, made their analysis of comments submitted on the Draft RMP and their ACEC evaluations public by posting them on their website, prior to issuing the Proposed RMP/FEIS (available on-line at <http://www.blm.gov/rmp/kemmerer/docs.htm>). Making such analyses available to the public before the publication of the Draft RMP will better prepare participants to understand the complex analyses and large amounts of data in the Draft RMP and increase the relevance and usefulness of comments and other public participation. We hope to see these types of opportunities provided to the many members of the public who are interested in the development of the Grand Junction Field Office RMP.

**Recommendation:** The BLM should make every attempt to encourage the public to participate in the RMP revision including holding workshops, making a preliminary range of alternatives available for public comment prior to preparing a Draft RMP, providing interim information regarding inventories of routes and visual resources, posting GIS files, and posting analyses such as ACEC evaluations and analysis of comments submitted on the Draft RMP to the RMP revision website.

b. Cooperating Agencies

Based on the BLM’s current regulations governing cooperating agencies (43 C.F.R. Part 1600), cooperating agencies will have a very strong presence throughout the Grand Junction Field Office RMP planning process. In order to permit the public to better understand the roles of these agencies, we request that BLM identify those agencies and tribal and local government entities that have been granted cooperating agency status, and disclose the areas of expertise or other qualifications that form the basis of their cooperating agency status.

**Recommendation:** The BLM should identify the agencies and tribal and local government entities granted cooperating agency status and post this information on the RMP revision website.

c. Protection of Natural Resources

The Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. § 1701 *et seq.*, imposes a duty on BLM to identify and protect the many natural resources found in the public lands governed by the Grand Junction RMP. FLPMA requires BLM to inventory its lands and their resource and values, "including outdoor recreation and scenic values." 43 U.S.C. § 1711(a). FLPMA also obligates BLM to take this inventory into account when preparing land use plans, using and observing the principles of multiple use and sustained yield. 43 U.S.C. § 1712(c)(4); 43 U.S.C. § 1712(c)(1). Through management plans, BLM can and should protect wildlife, scenic values, recreation opportunities and wilderness character in the public lands through various management decisions, including by excluding or limiting certain uses of the public lands. See 43 U.S.C. § 1712(e). This is necessary and consistent with the definition of multiple use, which identifies the importance of various aspects of wilderness characteristics (such as recreation, wildlife, natural scenic values) and requires BLM's consideration of the relative

values of these resources but "not necessarily to the combination of uses that will give the greatest economic return." 43 U.S.C. § 1702(c).

The range of alternatives is "the heart of the environmental impact statement." 40 C.F.R. § 1502.14. NEPA requires BLM to "rigorously explore and objectively evaluate" a range of alternatives to proposed federal actions. *See* 40 C.F.R. §§ 1502.14(a), 1508.25(c). "An agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action." Nw. Env'tl. Defense Center v. Bonneville Power Admin., 117 F.3d 1520, 1538 (9th Cir. 1997). In the context of this RMP revision and the many natural values found in these public lands, the RMP should explore a range of alternatives that protect wildlands, wildlife and other natural values. In developing management alternatives, the BLM should strive to craft an array of proposals that would result in actions that are best for the land rather than creating a limited range that focuses on isolating a specific type of interest. The RMP should not simply present a "conservation," a "development" and a "balanced" alternative; rather, the alternatives should reflect more nuanced options, which can also be accomplished by incorporating sub-alternatives.

Under FLPMA, BLM is also obligated to "give priority to the designation and protection of areas of critical environmental concern [ACEC]." 43 U.S.C. § 1712(c)(3). ACECs are areas "where special management is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems or processes." 43 U.S.C. § 1702(a). For potential ACECs, management prescriptions are to be "fully developed" in the RMP. Manual 1613, Section .22 (Develop Management Prescriptions for Potential ACECs). ACECs also include Research Natural Areas (RNAs), established for their significant biological and physical features, including plant or animal species or geological, soil or water features. RNAs have "ecological or other natural history values of scientific interest" and are managed for research and educational purposes. Outstanding Natural Areas (ONAs) are another type of ACEC, established to preserve scenic values and natural wonders. ONAs contain unusual natural characteristics and are managed primarily for educational and recreational purposes.

The resources in the Grand Junction planning area include many values that merit protection through special designations. Protection of existing ACECs and due consideration of proposed ACECs, including RNAs and ONAs, must be a priority in the Grand Junction RMP planning process.

In addition, there is no *per se* bar to managing and protecting the many values of these lands through overlapping designations, such as Wilderness Study Areas (WSAs) and ACECs or Special Recreation Management Areas (SRMA) and Wild and Scenic River Segments. For example, BLM's Jarbidge RMP (and subsequent amendments) in southern Idaho designated the Bruneau/Jarbidge River ACEC and the Salmon Falls Creek ACEC, which overlap the Bruneau River-Sheep Creek WSA, Jarbidge River WSA, and Lower Salmon Falls Creek WSA, and includes the Salmon Falls Creek, deemed eligible for inclusion in the National Wild and Scenic Rivers System. *See* BLM, Jarbidge Field Office, Idaho, Analysis of the Management Situation for the Jarbidge Resource Management Plan: Resource Management Plan/Environmental Impact

Statement at 212-216 and Figure 39 (Locations of Current ACECs) (July 2007), *available at* [http://www.blm.gov/pgdata/etc/medialib/blm/id/plans/jarbidge\\_rmp/documents/analysis\\_of\\_the\\_management.Par.59385.File.dat/part13.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/id/plans/jarbidge_rmp/documents/analysis_of_the_management.Par.59385.File.dat/part13.pdf); Figure 40: Wilderness Study Areas, *available at* [http://www.blm.gov/pgdata/etc/medialib/blm/id/plans/jarbidge\\_rmp/documents/analysis\\_of\\_the\\_management.Par.18048.File.dat/part14.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/id/plans/jarbidge_rmp/documents/analysis_of_the_management.Par.18048.File.dat/part14.pdf) (excerpts attached to these comments). These overlapping designations ensure that BLM protects both the relevant and important values associated with the ACECs and the wilderness character of the WSAs, both through current management and in the event WSAs are released during the life of the plan. In certain situations, overlapping designations are needed to fully protect the resources, for example IMP management of WSAs might differ greatly from the special management attention envisioned for the relevant and important values of a particular ACEC or in the event of congressional WSA release.

In addressing objections to “layering” of designations (through “establishment of ACECs or SRMAs over WSAs and Wild and Scenic Rivers”) raised in connection with the Monticello (Utah) RMP, the BLM responded, appropriately:

“Layering” is planning. Under FLPMA’s multiple use mandate, BLM manages many different resource values and uses on public lands. Through land use planning BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple use concept, BLM doesn’t necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. The process of applying many individual program goals, objectives, and actions to the same area of public lands may be perceived as “layering”. BLM strives to ensure that the goals and objectives of each program (representing resource values and uses) are consistent and compatible for a particular land area. Inconsistent goals and objectives can lead to resource conflicts, failure to achieve the desired outcomes of a land use plan, and litigation. Whether or not a particular form of management is restrictive depends upon a personal interest or desire to see that public lands are managed in a particular manner. All uses and values cannot be provided for on every acre. That is why land use plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that all resource values and uses can be considered together to determine what mix of values and uses is responsive to the issues identified for resolution in the land use plan. Layering of program decisions is not optional for BLM, but is required by the FLPMA and National BLM planning and program specific regulations.

FLPMA directs BLM to manage public lands for multiple use and sustained yield (Section 102(a)(7)). As a multiple-use agency, the BLM is required to implement laws, regulations and policies for many different and often competing land uses and to resolve conflicts and prescribe land uses through its land use plans. BLM’s Land Use Planning Handbook requires that specific decisions be made for each resource and use (Planning Handbook “H-1601-1”). Specific decisions must be included in each of the alternatives analyzed during development of the land use plan. As each alternative is formulated, each program decision is overlaid with other program decisions and inconsistent decisions are identified and modified so that ultimately a compatible mix of uses and management prescriptions result.

Monticello Proposed RMP, Response to Comments, comment no. 007-48 (**attached**).

As clarified by the BLM, because different designations serve different purposes, and management is often limited to protect only those values relevant to those particular designations, the fact that an ACEC may lie within a WSA does not justify failing to designate the ACEC and the fact that a proposed SRMA may overlap with an ACEC does not obviate the need for the SRMA.

**Recommendation:** The BLM must uphold its responsibility to protect the abundant natural values present in the Grand Junction planning area when developing management alternatives in the Grand Junction RMP and evaluating their environmental consequences, as required by both FLPMA and NEPA, 42 U.S.C. § 4321 *et seq.* The undersigned coalition has prepared a series of maps that will provide a geographic reference for many of the recommendations contained in these comments, including the protection of natural resources. These maps are being submitted by the Rocky Mountain Recreation Initiative and are incorporated herein by reference.

d. Special Management Proposals

As noted above, the BLM has a variety of tools for protecting natural values. Prior to submitting these scoping comments, we submitted an inventory of areas suitable for wilderness designation (citizens wilderness proposal – or CWP), which we have proposed for protection as new WSAs and/or through management of their wilderness characteristics. We also encourage the BLM to use designation of special recreation management areas and areas of critical environmental concern to protect natural values and, at this point, have identified six areas that we propose for special management as part of an overall management approach to creating, enhancing, and protecting quiet recreation experiences, protecting critical species habitats, and providing needed expansions of protections around current WSAs, ACECs, and SRMAs. Many of the values in these areas are already described in detail in the CWP submission and will be discussed in the context of these additional proposals in our subsequent submissions. In summary, the six proposed areas and designations are:

1. SRMA in the area around Granite Creek, Sagebrush Pillows, and Palisade CWPs, which would permit backcountry hunting along with other quiet recreation uses.
2. SRMA for backcountry recreation in the area around East Palisade, Maverick, and Unaweep CWPs.
3. SRMA for backcountry recreation in and around Sinbad Valley.
4. ACEC incorporating an area that borders Bangs Canyon and Dominguez North CWPs, which would protect important cultural resources (Northern Ute heritage sites) and also provide quiet recreation opportunities.
5. SRMA in the areas surrounding parts of the Demaree WSA for backcountry recreation, which would also support wildlife winter range management and protections, as well as restoration of vegetation restoration.
6. ACEC/Outstanding Natural Area incorporating South Shale Ridge and Cow Ridge CWPs and certain surrounding areas to protect their biodiversity, as well as providing for quiet recreation, supported by the roadlessness of the area.

We will submit expanded proposals, including more detailed descriptions and management prescriptions, in the near future and look forward to discussing these proposals with you.

e. Analysis of Environmental Consequences

NEPA requires federal agencies to assess the direct, indirect and cumulative environmental impacts of proposed actions, taking a “hard look” at environmental consequences and performing an analysis commensurate with the scale of the action at issue. 42 U.S.C. § 4321 et seq; 40 C.F.R. § 1508.8; *see also Metcalf v. Daley*, 214 F.3d 1135, 1151 (9<sup>th</sup> Cir. 2000); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). NEPA defines “cumulative impact” as:

the impact on the environment which results from the incremental impact of the action **when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.** Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. (emphasis added). Throughout these comments, we have identified analyses required to evaluate the direct, indirect and cumulative impacts of decisions made in the RMP, such as health impact assessments and air quality modeling.

**Recommendation:** The analyses discussed in these scoping comments must be completed prior to authorizing activities that will contribute to these impacts, such as oil and gas leasing, in order to determine whether and under what conditions they can be approved, such that significant impacts on the environment can be prevented. To the extent that the BLM defers any of the recommended analyses, we request that the RMP commit to a time period for completion and confirm that they will be completed prior to approval of contributing activities.

f. Land Tenure Decisions

BLM has identified land tenure decisions as a major issue to be addressed in the Grand Junction Field Office RMP revision. In light of present circumstances, BLM should review the previous plans and decisions and look at future land tenure decisions with an eye towards providing adequate open space for the growing public, maintaining key viewsheds and taking into consideration new proposals for open space and trails and special management areas. Section 102(a)(1) of FLPMA requires that BLM-managed lands be retained in federal ownership unless BLM determines through the land use planning process that disposal of a particular parcel will serve the national interest. 43 U.S.C. 1701. Land tenure decisions must achieve the goals, standards, and objectives outlined in the land use plan.

With the growing population has come a desire to develop more land, some of which may be appropriate. However, the BLM must retain land near sensitive and ecologically important areas, including those within existing or proposed ACECs or other special management areas, and including specifically citizen-proposed special management areas. Lands identified in new citizen proposals for open space and/or other special management that include lands not owned by BLM should be given priority for acquisition. BLM should only pursue land tenure decisions

if they will serve the national interest by supporting key values and resources, such as protecting ecologically important areas and providing open space. In addition, disposal or exchange may be appropriate where the BLM determines that lands will be dedicated to renewable energy development, if those lands are already degraded, closest to the load served for siting development, and can be sold or exchanged with a commitment to obtain lands with higher conservation values (such as wildlife corridors).

Given the current population trends within the region, BLM should reconsider all previous decisions in the Grand Junction RMP for disposal of public lands and re-evaluate whether or not those decisions still meet the needs of the public. As the agency moves forward it will be crucial that consideration be given to providing adequate open space and trails on public lands. Furthermore, as local entities are in the process of developing plans for such uses, the relationship between the RMP and these plans will be important, since BLM's decisions can affect local open space, parks and trail plans. Particular care should be taken to prevent sale or exchange of BLM parcels highly valued by local communities for the open space, wildlife habitat, and recreation opportunities they provide.

**Recommendations:** The BLM should work with local governments and Tribes when identifying areas where disposal of public lands may be appropriate. However, BLM should identify areas such as ACECs, citizen wilderness proposals, or sensitive species habitat for retention and acquisition. BLM should not dispose of parcels valued by local communities for their open space, wildlife habitat, and recreation opportunities.

## **2. PROTECTION OF LANDS WITH WILDERNESS CHARACTERISTICS**

### **a. General Considerations**

The lands governed by the Grand Junction RMP contain pristine wildlands, including those identified in Congresswoman Diana DeGette's Colorado Wilderness Act, most recently introduced in the 110<sup>th</sup> Congress. Section 201 of FLPMA mandates that BLM inventory the resources of the public lands, their resources and values. 43 U.S.C. § 1711. In the land use planning process, including revision of RMPs, Section 202 of FLPMA requires that BLM take into account the inventory and determine which multiple uses are best suited to which portions of the planning area. 43 U.S.C. § 1712. BLM's mandate of multiple use and sustained yield, as well as other relevant law and BLM's current guidance, provides for inventory and protection of wilderness values. **BLM is obligated to inventory for and consider a range of alternatives to protect lands with wilderness characteristics.**

### **1. Wilderness character is a valuable resource and important multiple use of the lands governed by the Grand Junction RMP.**

BLM has identified "wilderness characteristics" to include naturalness or providing opportunities for solitude or primitive recreation. *See*, Instruction Memoranda (IMs) 2003-274 and 2003-275. These values should also be identified and protected through this planning process. BLM should recognize the wide range of values associated with lands with wilderness character:

(a) **Scenic values** – FLPMA specifically identifies "scenic values" as a resource of BLM lands for purposes of inventory and management (43 U.S.C. § 1711(a)), and the unspoiled landscapes

of lands with wilderness characteristics generally provide spectacular viewing experiences. The scenic values of these lands will be severely compromised if destructive activities or other visual impairments are permitted.

(b) Recreation – FLPMA also identifies “outdoor recreation” as a valuable resource to be inventoried and managed by BLM. 43 U.S.C. § 1711(a). Lands with wilderness characteristics provide opportunities for primitive recreation, such as hiking, camping, hunting and wildlife viewing. Most, if not all primitive recreation experiences will be foreclosed or severely impacted if the naturalness and quiet of these lands are not preserved.

(c) Wildlife habitat and riparian areas – FLPMA acknowledges the value of wildlife habitat found in public lands and recognizes habitat as an important use. 43 U.S.C. § 1702(c). Due to their unspoiled state, lands with wilderness characteristics provide valuable habitat for wildlife, thereby supporting additional resources and uses of the public lands. As part of their habitat, many species are also dependent on riparian and other wetland habitats, especially during either seasonal migrations or seasons and years when surrounding habitats are dry and unproductive. Wilderness quality lands support biodiversity, watershed protection and overall healthy ecosystems. The low route density, absence of development activities and corresponding dearth of motorized vehicles, which are integral to wilderness character, also ensure the clean air, clean water and lack of disturbance necessary for productive wildlife habitat and riparian areas (which support both wildlife habitat and human uses of water).

Further, inventorying lands with wilderness characteristics will also provide important data on existing large blocks of habitat and how BLM can restore these blocks of habitat to better match the historic range of variability. Swanson et al. (1994) contend that managing an ecosystem within its range of variability is appropriate to maintain diverse, resilient, productive, and healthy ecosystems for viable populations of native species. Using the historical range of variability, they believe, is the most scientifically defensible way to meet society’s objective of sustaining habitat. Patrick Daigle and Rick Dawson, Extension Note 07; Management Concepts for Landscape Ecology (Part 1 of 7). October 1996. <http://www.for.gov.bc.ca/hfd/pubs/docs/en/en07.pdf>; citing Swanson, F. J.; Jones, J. A.; Wallin, D. O.; Cissel, J. H. 1994. Natural variability--implications for ecosystem management. In: Jensen, M. E.; Bourgeron, P. S., tech. eds. Eastside Forest Ecosystem Health Assessment--Volume II: Ecosystem management: principles and applications. Gen. Tech. Rep. PNW-GTR-318. Portland, OR: U.S. Dept. of Agriculture, Forest Service, Pacific Northwest Research Station: pp 89-106.

Identifying, restoring and protecting substantial roadless areas in the lands governed by the Grand Junction RMP can provide crucial benefits to wildlife.

(d) Cultural resources – FLPMA also recognizes the importance of “historical values” as part of the resources of the public lands to be protected. 43 U.S.C. § 1702(c). The lack of intensive human access and activity on lands with wilderness characteristics helps to protect these resources. The lands governed by the Grand Junction RMP contain significant cultural resources, and there are important areas of overlap between the areas identified as rich in cultural resources and those containing wilderness characteristics, underscoring the added benefits of protecting these lands.

(e) Economic benefits – The recreation opportunities provided by wilderness quality lands also yield direct economic benefits to local communities. According to the U.S. Fish & Wildlife Service, in 2006 State residents and non-residents spent \$3 billion on wildlife recreation in Colorado. (USFWS 2006, *National Survey of Hunting, Fishing and Wildlife-associated Recreation* - <http://www.census.gov/prod/2008pubs/fhw06-co.pdf>). In addition, local communities that protect wildlands reap measurable benefits in terms of employment and personal income. For instance, a report by the Sonoran Institute (Sonoran Institute 2004, *Prosperity in the 21st Century West -The Role of Protected Public Lands*) found that:

Protected lands have the greatest influence on economic growth in rural isolated counties that lack easy access to larger markets. From 1970 to 2000, real per capita income in isolated rural counties with protected land grew more than 60 percent faster than isolated counties without any protected lands.

These findings confirm earlier research, showing that wilderness is in fact beneficial for local economies. Residents of counties with wilderness cite wilderness as an important reason why they moved to the county, and long-term residents cite it as a reason they stay. Recent survey results also indicate that many firms decide to locate or stay in the West because of scenic amenities and wildlife-based recreation, both of which are strongly supported by wilderness areas. (Morton 2000, *Wilderness: The Silent Engine of the West's Economy*). Other “non-market” economic values arise from the ability of wildlands to contribute to recreation and recreation-related jobs, scientific research, scenic viewsheds, biodiversity conservation, and watershed protection. (Morton 1999, *The Economic Benefits of Wilderness: Theory and Practice*; Loomis 2000, *Economic Values of Wilderness Recreation and Passive Use: What We Think We Know at the Turn of the 21<sup>st</sup> Century*). All of these economic benefits are dependent upon adequate protection of the wilderness characteristics of the lands.

(f) Quality of life – The wildlands located within the Grand Junction Field Office help to define the character of this area and are an important component of the quality of life for local residents and future generations, providing wilderness values in proximity to burgeoning urban and suburban areas such as the town of Grand Junction. Their protection enables the customs and culture of this community to continue.

(g) Balanced use – The vast majority of BLM lands are open to motorized use and development. FLPMA recognizes that “multiple use” of the public lands requires “a combination of balanced and diverse resource uses” that includes recreation, watershed, wildlife, fish, and natural scenic and historical values (43 U.S.C. § 1702(c)). FLPMA also requires BLM to prepare land use plans that may limit certain uses in some areas (43 U.S.C. § 1712). Many other multiple uses of public lands are compatible with protection of wilderness characteristics – in fact, many are enhanced if not dependent on protection of wilderness qualities (such as primitive recreation and wildlife habitat). Protection of wilderness characteristics will benefit many of the other multiple uses of BLM lands, while other more exclusionary uses (such as off-road vehicle use and timber harvesting) will still have adequate opportunities on other BLM lands.

2. BLM must consider alternatives for managing lands managed by the Grand Junction RMP to protect their wilderness characteristics.

NEPA requires BLM to “rigorously explore and objectively evaluate” a range of alternatives to proposed federal actions. *See* 40 C.F.R. §§ 1502.14(a) and 1508.25(c).

NEPA’s requirement that alternatives be studied, developed, and described both guides the substance of environmental decision-making and provides evidence that the mandated decision-making process has actually taken place. Informed and meaningful consideration of alternatives -- including the no action alternative -- is thus an integral part of the statutory scheme.

Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228 (9th Cir. 1988), cert. denied, 489 U.S. 1066 (1989) (citations and emphasis omitted).

An agency violates NEPA by failing to “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed action. City of Tenakee Springs v. Clough, 915 F.2d 1308, 1310 (9<sup>th</sup> Cir. 1990) (quoting 40 C.F.R. § 1502.14). This evaluation extends to considering more environmentally protective alternatives and mitigation measures. *See, e.g.*, Kootenai Tribe of Idaho v. Veneman, 313 F.3d 1094, 1122-23 (9<sup>th</sup> Cir. 2002) (and cases cited therein); *see also* Env’tl Defense Fund., Inc. v. U.S. Army Corps. of Eng’rs, 492 F.2d 1123, 1135 (5<sup>th</sup> Cir. 1974); City of New York v. Dept. of Transp., 715 F.2d 732, 743 (2<sup>nd</sup> Cir. 1983) (NEPA’s requirement for consideration of a range of alternatives is intended to prevent the EIS from becoming “a foreordained formality.”); Utahns for Better Transportation v. U.S. Dept. of Transp., 305 F.3d 1152 (10<sup>th</sup> Cir. 2002), modified in part on other grounds, 319 F.3d 1207 (2003); Or. Env’tl. Council v. Kunzman, 614 F.Supp. 657, 659-660 (D. Or. 1985) (stating that the alternatives that must be considered under NEPA are those that would “avoid or minimize” adverse environmental effects).

NEPA requires that an actual “range” of alternatives is considered, such that the Act will “preclude agencies from defining the objectives of their actions in terms so unreasonably narrow that they can be accomplished by only one alternative (i.e. the applicant’s proposed project).” Colorado Environmental Coalition v. Dombeck, 185 F.3d 1162, 1174 (10<sup>th</sup> Cir. 1999), citing Simmons v. United States Corps of Engineers, 120 F.3d 664, 669 (7<sup>th</sup> Cir. 1997). This requirement prevents the EIS from becoming “a foreordained formality.” City of New York v. Department of Transp., 715 F.2d 732, 743 (2<sup>nd</sup> Cir. 1983); *see also* Davis v. Mineta, 302 F.3d 1104 (10<sup>th</sup> Cir. 2002).

**Given the broad purpose of the preparation of the Grand Junction Field Office RMP and the information compiled by the public regarding lands with wilderness characteristics, the range of alternatives for these lands should include alternatives to protect their wilderness values.** This range of alternatives is also consistent with BLM’s FLPMA obligations to inventory its lands and their resources, “including outdoor recreation and scenic values” (43 U.S.C. § 1711(a)), which by definition includes wilderness character. FLPMA also obligates BLM to take this inventory into account when preparing land use plans, using and observing the principles of multiple use and sustained yield. 43 U.S.C. § 1712(c)(4); 43 U.S.C. § 1712(c)(1). Through management plans, BLM can and should protect wilderness character and the many uses that wilderness character provides on the public lands through various management decisions, including by excluding or limiting certain uses of the public lands. *See* 43 U.S.C. §

1712(e). This is necessary and consistent with the definition of multiple use, which identifies the importance of various aspects of wilderness character (such as recreation, wildlife, natural scenic values) and requires BLM's consideration of the relative values of these resources but "not necessarily to the combination of uses that will give the greatest economic return." 43 U.S.C. § 1702(c).

b. BLM should consider designating new Wilderness Study Areas.

We are aware of the April 2003 settlement agreement (Utah Settlement) between Secretary of the Interior Norton and the State of Utah (in which BLM abdicated its authority to designate any additional Wilderness Study Areas (WSAs)), and we maintain that this agreement is invalid and will ultimately be overturned in pending litigation.

The federal court in Utah revoked its approval of the Utah Settlement, stating that its approval of the initial settlement was never intended to be interpreted as a binding consent decree. Recognizing that the court's decision undermined the legal ground for the Utah Settlement, the State of Utah and the Department of Interior have now formally withdrawn the settlement as it was originally submitted. *See*, Motion to Stay Briefing and for a Status Conference, September 9, 2005, **attached**. This casts serious doubt upon BLM's current policy not to consider designating new WSAs. Because the State of Utah and the Department of Interior have withdrawn their settlement and do not intend to seek a new consent decree, there is currently no binding consent decree and the BLM has not even issued any updated guidance seeking to continue applying this misguided, and illegal, policy.

Even if the Utah Settlement is reinstated, not as a consent decree, it is illegal. The Utah Settlement is based on an interpretation of FLPMA §§ 201, 202, and 603 that is contrary to FLPMA's plain language. Section 603 did not supersede or limit BLM's authority under § 201 to undertake wilderness inventories, but rather relies explicitly on BLM having exactly that authority under § 201. Nor did § 603 in any way limit BLM's discretion under § 202 to manage its lands as it sees fit, including managing areas as § 202 WSAs in accordance with the Interim Management Policy (IMP). Every prior administration has created WSAs under § 202 and they plainly had authority to do so. This administration has such authority as well, making this a reasonable alternative deserving of consideration in this NEPA process.

The Utah Settlement is also illegal because the court in Utah lacked jurisdiction to prohibit designation of new WSAs nationwide, including in Colorado.

Further, in defining what is a "reasonable" range of alternatives, NEPA requires consideration of alternatives "that are practical or feasible" and not just "whether the proponent or applicant likes or is itself capable of carrying out a particular alternative"; in fact, "[a]n alternative that is outside the legal jurisdiction of the lead agency must still be analyzed in the EIS if it is reasonable." Council on Environmental Quality, *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, Questions 2A and 2B*, available at <http://ceq.hss.doe.gov/nepa/regs/40/40p3.htm>; 40 C.F.R. §§ 1502.14, 1506.2(d).

**Recommendation:** In light of the most recent ruling and subsequent action of the parties, we emphasize that the BLM can and should continue to designate new WSAs in this planning process. BLM's current policy also does not justify excluding creation of new WSAs from consideration in one or more management alternatives. If BLM fails to fulfill these obligations, it risks violating both FLPMA and NEPA, and jeopardizing the validity of this entire planning process.

c. BLM should also consider other management alternatives for protecting lands with wilderness characteristics.

**The Utah Settlement does not affect BLM's obligation to value wilderness character or, according to BLM directives, the agency's ability to protect that character, including in the development of management alternatives.** In fact, BLM has not only claimed that it can continue to protect wilderness values, but has also committed to doing so. On September 29, 2003, BLM issued IMs 2003-274 and 2003-275, formalizing its policies concerning wilderness study and consideration of wilderness characteristics in the wake of the Utah Settlement. In the IMs and subsequent public statements, BLM has claimed that its abandonment of previous policy on WSAs would not prevent protection of lands with wilderness characteristics. The IMs contemplate that BLM can continue to inventory for and protect land "with wilderness characteristics," such as naturalness or providing opportunities for solitude or primitive recreation, through the planning process. The IMs further provide for management that emphasizes "the protection of some or all of the wilderness characteristics as a priority," even if this means prioritizing wilderness over other multiple uses. This guidance does not limit its application to lands suitable for designation of WSAs; for instance, the guidance does not include a requirement for the lands at issue to generally comprise 5000-acre parcels or a requirement that the lands have all of the potential wilderness characteristics in order to merit protection. IM 2003-274 states that "BLM may continue to inventory public lands for resource or other values, *including wilderness characteristics*" and that the agency can "*manage them using special protections* to protect wilderness characteristics." (emphasis added). Further, IM 2003-275, Change 1, reads:

The BLM can make a *variety of land use plan decisions* to protect wilderness characteristics, such as establishing Visual Resource Management (VRM) class objectives to guide the placement of roads, trails, and other facilities; establishing conditions of use to be attached to permits, leases, and other authorizations to achieve the desired level of resource protection; and designating lands as open, closed, or limited to Off Highway Vehicles (OHV) to achieve a desired visitor experience. (emphasis added).

Accordingly, administrative protection can and should be considered for lands not currently protected. The Draft RMP should also consider management alternatives that provide administrative protection for the wilderness characteristics of those lands currently designated as WSAs if they are not ultimately designated as Wilderness by Congress; their wilderness characteristics are already acknowledged by the BLM.

In an April 11, 2003, letter to various Senators, including Senator Craig Thomas (WY), then-Secretary of the Interior Gale Norton stated: "The Department stands firmly committed to the

idea that we can and should manage our public lands to provide for multiple use, including protection of those areas that have wilderness characteristics.” The letter also stated that “the government can identify, or ‘inventory’ lands . . . for wilderness values” and manage them through different designations which would be distinguished from the “limitation of the 1964 Wilderness Act, which only allows roadless areas greater than 5000 acres to be congressionally designated.” (copy **attached** for your reference). Similarly, in a February 12, 2004, letter to William Meadows, President of The Wilderness Society (copy **attached** for your reference), then-Assistant Secretaries of the Interior Rebecca Watson and Lynn Scarlett stated that “through the land use planning process, BLM uses the ACEC designation or other management prescriptions to protect wilderness characteristics or important natural or cultural resources.”

Courts have confirmed the BLM’s obligations to consider the value of wilderness characteristics and the potential impacts of decisions on this resource when making land use planning decisions. Pursuant to FLPMA, “The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.” 43 U.S.C. §1711(a). Wilderness character is a resource for which BLM must keep a current inventory. As the U.S. Court of Appeals for the Ninth Circuit recently held: “wilderness characteristics are among the ‘resource and other values’ of the public lands to be inventoried under § 1711. BLM’s land use plans, which provide for the management of these resources and values, are, again, to ‘rely, to the extent it is available, on the inventory of the public lands, their resources, and other values.’ 43 U.S.C. § 1712(c)(4).” Oregon Natural Desert Ass’n v. Bureau of Land Management, 531 F.3d 1114, 1119 (9<sup>th</sup> Cir. 2008). Therefore, BLM is required to consider “whether, and to what extent, wilderness values are now present in the planning area outside of existing WSAs and, if so, how the Plan should treat land with such values.” *Id.* at 1143. The BLM has a similar obligation in preparing the Grand Junction RMP.

In another decision, a federal court found that BLM’s failure to re-inventory lands for wilderness values and to consider the potential impact of decisions regarding management of a grazing allotment violated its obligations under NEPA and FLPMA, then enjoined any implementation of the decision until the agency reinventoried the lands at issue and prepared an environmental document taking into account the impacts of its decisions on wilderness values. In Oregon Natural Desert Association v. Rasmussen, CV 05-1616-AS, Findings and Recommendations (D.Or. April 20, 2006 – copy **attached**); Order (D.Or. December 12, 2006 – copy **attached**), the Oregon Natural Desert Association (ONDA) had submitted an updated inventory of wilderness values, but BLM declined to “revisit” its previous inventory or to consider the potential damage to wilderness values from the proposed grazing management decisions. The court found that BLM had violated NEPA by failing to consider significant new information on wilderness values and potential impacts on wilderness values, and had also failed to meet its obligations under FLPMA by failing to engage in a continuing inventory of wilderness values. The court concluded:

The court finds BLM did not meet its obligation under NEPA simply by reviewing and critiquing ONDA's work product. **It was obligated under NEPA to consider**

**whether there were changes in or additions to the wilderness values** within the East-West Gulch, **and whether the proposed action in that area might negatively impact those wilderness values**, if they exist. The court finds BLM did not meet that obligation by relying on the one-time inventory review conducted in 1992. **Such reliance is not consistent with its statutory obligation to engage in a continuing inventory so as to be current on changing conditions and wilderness values.** 43 U.S.C. § 1711(a). (emphasis added).

In preparing the Grand Junction RMP, the BLM is similarly obligated to both consider additions to wilderness values and evaluate the potential impacts on those wilderness values from its management decisions.

In the most recent ruling on the Utah Settlement challenge (State of Utah v. Norton, Case No. 2:96-CV-0870, Order and Opinion (D.Utah September 20, 2006)), Judge Benson, reiterating the BLM's position, stated: "Both Utah and the BLM acknowledge that the BLM has the discretion to manage lands in a manner that is **similar to the non-impairment standard** by emphasizing the protection of wilderness characteristics as a priority over other potential uses." Order and Opinion, p. 41 (emphasis added - excerpt **attached**). Similarly, in a subsequent briefing to the U.S. Court of Appeals for the 10<sup>th</sup> Circuit, the Department of the Interior and the BLM reiterated that "the settlement does not preclude BLM from **inventorying public lands for wilderness-associated characteristics**" and that "the land management decision obtained through FLPMA § 202 process may **resemble management under FLPMA § 603's non-impairment standard.**" In discussing how BLM will manage lands with wilderness characteristics, the brief refers to the "BLM's discretion under FLPMA § 202 to **preserve their wilderness-associated characteristics.**" Brief of the Federal Appellees, State of Utah v. Kempthorne, Case No. 06-4240 (February 26, 2007), pp. 40, 43 (emphases added - excerpt **attached**). Similarly, the Grand Junction Field Office can and should protect lands with wilderness characteristics from the damage likely to result from oil and gas development and uncontrolled ORV use, both of which the BLM has acknowledged are likely to occur if these activities are permitted to occur on lands with wilderness characteristics.

In addition, the information submitted regarding citizen-proposed wilderness constitutes significant new information that must be addressed in this RMP revision. This information has not yet been analyzed in the existing land use plan, so NEPA requires analysis of the potential environmental direct, indirect and cumulative effects of oil and gas development on these areas and consideration of protection for them. *See*, 40 C.F.R. § 1502.9(c); Marsh v. Oregon Natural Resources Council, 490 U.S. 360, 374 (1989). In a recent decision, the U.S. District for the District of Utah found that information regarding wilderness characteristics that was not considered in the existing land use plan was:

**a textbook example of significant new information** about the affected environment (the **wilderness attributes and characteristics** of the Desolation Canyon, Floy Canyon, Flume Canyon, Coal Canyon, and Flat Tops unit) that would be **impacted by oil and gas development**; information that was **not reflected in BLM's existing NEPA analyses.**

Southern Utah Wilderness Alliance v. Norton, 457 F. Supp. 2d 1253 (D. Utah 2006) (**attached**). A compliant NEPA analysis requires not only assessment of potential impacts but also a consideration of potential mitigation measures, such as protecting lands with wilderness characteristics. 40 C.F.R. §§ 1502.14, 1502.16. The Grand Junction RMP must consider protective measures tailored specifically to protect lands with wilderness characteristics.

BLM's Arizona State Office has issued guidance that elaborates upon the BLM's national guidance by providing for identification of lands with wilderness characteristics and development of management prescriptions to protect and enhance these values (IM No. AZ-2005-007 – **attached** for your reference). The Proposed RMP for the Arizona Strip (excerpts **attached** for your reference) includes land use allocations for lands with wilderness characteristics in every alternative and sets out protective management prescriptions (Table 2.10). This RMP also includes a detailed discussion of how BLM identified and assessed wilderness characteristics and the need for protective management (Appendix 3.D). The process is consistent with FLPMA's direction that BLM inventory for the many values of the public lands and consider ways to protect them (i.e., not all uses are appropriate in all places) in the RMP. 43 U.S.C. §§ 1711, 1712. The recently-released Records of Decision for this planning area all include protection for lands with wilderness characteristics (available on-line at: [http://www.blm.gov/az/st/en/fo/arizona\\_strip\\_field.html](http://www.blm.gov/az/st/en/fo/arizona_strip_field.html) )

Other RMPs that are being prepared in Colorado, Arizona, New Mexico and Utah include identification of lands with wilderness characteristics and include management of certain areas to maintain and enhance these values in management alternatives under consideration. For example, the recently-released Preliminary Draft Alternatives for the TriCounty RMPs (prepared by the BLM's Las Cruces, NM Field Office) also provide for protection of citizen-proposed wilderness, stating that these areas "would be managed to maintain wilderness characteristics." See, TriCounty RMPs/EIS Newsletter, p. 3 (**attached** and also available on-line at: [http://www.nm.blm.gov/lcfo/tri\\_county/tricounty.html](http://www.nm.blm.gov/lcfo/tri_county/tricounty.html)). The Preliminary Goals and Objectives (p. 3, also **attached**) set out a *management approach specific to lands with wilderness characteristics*, including:

- Goal: Maintain naturalness, outstanding opportunities for solitude, and unconfined recreation.
- Objectives:
  - Manage areas with wilderness characteristics to maintain the natural qualities of the landscape where the imprint of human activity is substantially unnoticeable; where the sights, sounds, and evidence of other people are rare or infrequent; and where visitors can be isolated, alone, or secluded from others.
  - Provide management direction for assessing site specific impacts from proposals that fall within identified areas with wilderness characteristics based on the long-term effect on naturalness, ability to restore the impacted area to its natural state, compatibility with VRM objectives, loss of opportunity for solitude and primitive recreation, and potential for proposed use to be accommodated outside of the area.

In addition, the Draft RMP for the Little Snake Field Office (released February 9, 2007 and available on-line at: <http://www.co.blm.gov/lspa/rmp/index.htm>) addressed management of lands with wilderness characteristics and/or backcountry characteristics. Most of the lands at issue in

the Little Snake Draft RMP were identified as part of a citizens' wilderness proposal, which the BLM re-inventoried and considered for management of their naturalness and/or opportunities for primitive recreation or solitude. The Draft RMP identifies two *specific management approaches*, one for "Lands with Wilderness Characteristics Outside Existing WSAs" and another for "Lands with Backcountry Characteristics Outside Existing WSAs." See, Draft RMP, pp. 2-158 – 2-161; 2-199 – 2-201 (**attached**). Management prescriptions include:

Lands with Wilderness Characteristics:

- Objective: "to protect naturalness, opportunities for semiprimitive recreation and solitude";
- closed to oil and gas operations and other minerals activities;
- off-road vehicles (ORVs) limited to designated routes;
- Class II or Class III Visual Resource Management (VRM) classification; and
- Some areas may be managed as a Special Recreation Management Area (SRMA) to "provide quality primitive recreation experiences in a largely natural setting.":
  - closed to oil and gas leasing (or to new oil and gas leasing);
  - closed to ORVs;
  - VRM Class II.

Lands with Backcountry Characteristics:

- Described as "backcountry areas";
- Objective: "to provide backcountry recreation experience in predominantly natural settings";
- closed oil and gas leasing;
- closed to ORVs; and
- VRM Class II.

**To ensure that wilderness values receive proper and sufficient attention as a critical aspect of land management in preparation of the Grand Junction RMP, BLM must address wilderness as a separate and unique issue in the planning process** including in its Planning Criteria, in the Analysis of the Management Situation and in each section of the RMPs. Protection of lands with wilderness character should be identified as a major issue in the scoping report. This will assist the public in understanding the values of wilderness-quality lands and the potential effects of other multiple uses on wilderness character, as well as in communicating comments or concerns regarding the management of these lands to BLM. Because comments on protection of wilderness values will be clearly identified, BLM will be in a better position to clarify any misconceptions and provide complete responses.

In preparing the revised RMP and accompanying EIS, BLM should clearly present management alternatives in the context of protecting wilderness character and analyze environmental consequences to that character. The protection of wilderness character should also be identified as one of the major scoping issues in the RMP. BLM has been aware of these proposed wilderness areas for some time, and the agency must attend to them. In the "Alternatives" section of the RMP, BLM must include various ways to protect these lands in each of the management alternatives. In addition to considering designation of new WSAs, BLM should propose protective management prescriptions or other protective status (including mineral withdrawals, non-motorized recreation prescriptions, ACEC designations, and prohibitions on new road

construction and erection of structures such as cell towers) for these lands. The Alternatives section must also discuss the implications of each alternative for the wilderness-quality lands governed by the Grand Junction RMP. Finally, BLM must specify the “Environmental Consequences” of the resource management decisions on the wilderness-quality lands in the planning areas. This discussion should include, but not be limited to, an analysis of the cumulative impacts of other activities (including those undertaken by non-federal entities) within the planning areas on these unique lands. In short, in every major section of the RMP, BLM must address wilderness-quality lands and citizen-proposed wilderness areas. BLM should then take appropriate actions to protect wilderness character in the preferred management alternative.

We look forward to seeing inventory for and protection of wilderness qualities comprehensively addressed as the preparation of the Grand Junction RMP proceeds.

***Recommendations:*** BLM should include protection of lands with wilderness characteristics in the RMP’s management alternatives and thoroughly analyze this issue throughout the planning process. To ensure that wilderness values receive proper and sufficient attention as a critical aspect of land management in preparation of the RMP, BLM must inventory for lands with wilderness characteristics (including those lands identified in the pending Colorado Wilderness Act), consider alternatives for protecting lands with wilderness characteristics (including for those lands currently designated as WSAs if they are not ultimately designated as Wilderness by Congress) and address wilderness as a separate and unique issue in the planning process in each section of the RMP, as described above.

d. South Shale Ridge – The BLM’s reinventory of this area led to acknowledgment of its wilderness character and a finding that an amendment of the Grand Junction RMP should be undertaken in order to assess potential impacts and consider protection of these values. A 2006 federal court decision<sup>1</sup> (*The Wilderness Society v. Sally Wisely*) overturned the agency’s efforts to lease South Shale Ridge, citing failures to comply with the Endangered Species Act and consider an alternative that would have been more protective of wilderness characteristics. The BLM has yet to fully incorporate the significant new information regarding the wilderness character of South Shale Ridge into its management decisions.

***Recommendation:*** The Grand Junction RMP should incorporate the acknowledgment of the wilderness character of South Shale Ridge and consider how to manage the area to protect these values, including closing these lands to oil and gas leasing.

e. Bangs Canyon – The Bangs Canyon Management Plan was completed in 1999, prior to the re-inventory of the wilderness characteristics of this area, in which the BLM acknowledged that the area did, in fact, have wilderness characteristics and concluded that the Grand Junction RMP should be amended to consider protection for those characteristics. In subsequent planning, the BLM has repeatedly refused to consider an alternative for managing this area that did not include a motorized connection to Highway 141 – although this would protect the wilderness character of this area and is necessary to provide a reasonable range of management alternatives.

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<sup>1</sup> *Wilderness Society v. Wisely*, 524 F.Supp.2d 1285 (D.Colo. 2006).

**Recommendation:** The Grand Junction RMP should incorporate the acknowledgment of the wilderness character of Bangs Canyon, consider how to manage the area to protect these values, and then update and amend the Bangs Canyon Management Plan.

f. Wilderness Study Areas.

i. Reassessment of suitability recommendations.

As discussed in detail in our previous submission of proposed wilderness areas, assessments of wilderness characteristics in the Grand Junction Field Office need to be updated, based on inaccuracies in agency inventory and changing perceptions of the conditions and values of these areas.

**Recommendation:** In conducting its reassessment of wilderness character in the Grand Junction Field Office, we would also recommend that the BLM reconsider recommendations that found WSAs not suitable for Wilderness designation by Congress.

ii. Travel management.

Travel management planning within WSAs must minimize ORV motorized routes, which can impair wilderness characteristics. BLM is obligated to manage the WSAs in accordance with the Interim Management Policy (IMP) for Lands Under Wilderness Review (BLM Manual H-8550-1), which requires that WSAs are managed to protect their wilderness values. DRMP/EIS, p. 2-50. The IMP requires management of the WSAs in the Grand Junction Field Office in accordance with the nonimpairment standard, such that no activities are allowed that may adversely affect the WSAs' potential for designation as wilderness. As stated in the IMP, the "overriding consideration" for management is that:

. . . preservation of wilderness values within a WSA is paramount and should be the primary consideration when evaluating any proposed action or use that may conflict with or be adverse to those wilderness values. (emphasis in original)

The IMP also reiterates that WSAs "must be managed to prevent unnecessary or undue degradation." Additional directives regarding management of ORVs in WSAs can be found in BLM's regulations, which require BLM to ensure that areas and trails for ORV use are located "to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and to **prevent impairment of wilderness suitability.**" 43 C.F.R. § 8342.1(a) (emphasis added). BLM is also obligated to close routes to ORV use if ORVs are causing or will cause considerable adverse effects on wilderness suitability. 43 C.F.R. § 8341.2. BLM is also required to manage WSAs as Visual Resource Management (VRM) Class I. The object of VRM Class I is "to preserve the existing character of the landscape" and management is so that the "level of change to the characteristic landscape should be very low and must not attract attention" See, BLM official Visual Resource Management information website at: <http://www.blm.gov/nstc/VRM/vrmsys.html>.

As a threshold matter, we would like to emphasize that continued motorized use in WSAs can damage wilderness suitability and therefore should be prohibited under both the interim management policy and the ORV regulations. Further, the use of ORVs and increases in their use

would be inconsistent with VRM Class I. All motorized ways in WSAs should be closed and restored. In order to comply with the IMP, if any motorized ways are retained, then designations should refer only to “ways.”

In order to fulfill the mandates of the IMP, BLM’s preferred alternative should cause the least harm and provide the most benefits to the wilderness characteristics in the WSAs. In addition, any motorized routes left open in WSAs must meet the criteria of the IMP and the BLM’s ORV regulations, showing that they do not impair wilderness suitability. BLM must vigilantly monitor the conditions of these routes and their impact on wilderness suitability, and ensure that they are closed if use of the routes impair wilderness values. The approach set out in IM ID-2008-016 (Vehicle Use in Wilderness Study Areas (WSAs)) recently issued by the BLM Idaho State Office (and **attached** for your reference) is instructive.

IM ID-2008-016 was issued “to reinforce existing policy and guidance” and, therefore, is equally applicable to the Grand Junction Field Office’s management of vehicle use in WSAs. The IM emphasize the importance of monitoring ORVs, due to “the rapid growth” of their use, to determine if the volume and nature of the uses is leading to impairment of wilderness character to provide “a basis for management decisions that address continuing restricting, or prohibiting existing vehicle uses.” The BLM’s obligations, as described in the IM, include “determining if past or existing vehicle use or mechanized transport in WSAs has caused impairment to wilderness character.” The IM also requires the BLM to document in an RMP:

- where and what vehicle uses were occurring in the WSA prior to the passage of FLPMA, which effectively creates a baseline
- past monitoring and those to be used “in the future to determine if wilderness values have been impaired or not by continued vehicle use”

In discussing monitoring, the IM reiterates that: “Because the preservation of wilderness values within a WSA is always of paramount importance, the BLM has an obligation to periodically evaluate the impact of use on ways that have been allowed to continue in relation to wilderness values, and if use of these ways is impairing such values, to take measures the end the impairment.” Incorporating the directives of this IM into the Grand Junction RMP and complying with them, will ensure that the BLM is in compliance with the IMP.

***Recommendations:*** All routes designated in WSAs should be specifically identified in the RMP as “ways” and distinguished from “roads,” since WSAs are, by definition, roadless. All ways should also be identified as temporary. The RMP must acknowledge the likely damage from permitting ongoing ORV use in WSAs and the benefits to wilderness values from limiting such access, and complete a thorough analysis of each alternative. In general, in order to comply with the IMP and BLM’s regulations regarding motorized use, the RMP should seek to minimize ORVs in WSAs, permitting ways only if they do not impair wilderness suitability or damage wilderness characteristics. For any ways that will be retained, the BLM must show that they are permissible under the standards of the IMP and the regulations, and also show a compelling reason as to why it is necessary for the way to be open to ORV use. Further, the RMP must make specific commitments and include a protocol to monitor the potential impacts on wilderness suitability and wilderness characteristics of any ways left open to ORVs in WSAs and to

immediately close these ways (and proceed with restoration) if impacts are identified. The BLM should adopt the approach to management set out in IM ID-2008-016, including creating a baseline of conditions in the WSAs, setting out a detailed monitoring program, incorporating standards for determining if use of these ways is impairing wilderness values, and committing to take measures to end any such impairment immediately, including through closure and restoration of ways.<sup>2</sup>

Closure and restoration of all ways in WSAs is most consistent with the IMP and with protection of the other natural and cultural resources in the Grand Junction Field Office.

### 3. **HEALTH IMPACT ASSESSMENT**

In February, 2008, the Environmental Protection Agency provided the BLM with its comments on a revised drilling plan for the Pinedale Anticline in Wyoming, citing concerns about human health issues including elevated ozone levels and groundwater contamination, as well as visibility impacts in nearby Wilderness Areas. Consistent with its responsibilities under Section 309 of the Clean Air Act, EPA reviewed the analysis of impacts and gave the plan its worst possible rating. EPA recommended that BLM revise the plan to correct the problems identified by EPA. In its decision, the EPA stated: “[I]t is of utmost importance that the Revised Draft SEIS identify effective and enforceable mitigation strategies to ensure environmental and public health protection as the proposed 4,399 additional wells on the Pinedale Anticline are developed.”<sup>3</sup>

The BLM should do the same in the EIS for the Grand Junction RMP and any other major decision document where oil and gas operations will have a significant impact on human health. Oil and gas development is acknowledged to have potentially severe impacts on human health, as noted below, and the Draft EIS should incorporate a formal methodology to evaluate all health issues and potential mitigations. We therefore request that the BLM incorporate a Health Impact Assessment (HIA), which is a systematic, comprehensive methodology for assessing human health impacts, as part of the EIS. A HIA looks at all the possible health effects from a decision, including contaminants and air pollutants but also water contamination, accidents and injuries, alcoholism and substance abuse, mental health impacts, and more. Not only is this approach used by U.S. and international health agencies, but it is used by the oil and gas industry itself in overseas operations.<sup>4</sup> Just last year, the BLM incorporated a full HIA into an oil and gas Draft

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<sup>2</sup> The Grand Junction Field Office has or should have monitoring data for the WSAs managed under this RMP, and must make this available in the RMP. In addition, if the monitoring data indicates that ORV use is impacting the WSAs (i.e. riders not staying on the ways, ORV use impacting the plants, soils, wildlife species, etc), then BLM must take appropriate action in the RMP and prohibit ORV use on the ways. If the BLM has documentation of the condition of these ways and proposed open area prior to the passage of FLPMA and/or as of the date the WSAs were designated, this information must be included in the Draft RMP as well, and should be incorporated into BLM’s analysis and decision-making process.

<sup>3</sup> Letter from EPA Regional Administrator, Region 8, to State Director, Bureau of Land Management, Wyoming State Office regarding Revised Draft Supplemental Environmental Impact Statement for the Pinedale Anticline Oil and Gas Exploration and Development Project Sublette County, Wyoming (CEQ #20070542), February 14, 2008:

<http://www.epa.gov/region8/compliance/nepa/nepadocs/FinalEPACommentsOnPinedaleAnticline14Feb08.pdf>

<sup>4</sup> International Petroleum Industry Environmental Conservation Association and the International Association of Oil and Gas Producers, *A Guide to Health Impact Assessments in the Oil and Gas Industry*, (London; 2005): [http://www.ipieca.org/activities/health/health\\_publications.php](http://www.ipieca.org/activities/health/health_publications.php)

EIS in Alaska.<sup>5</sup> A comparable approach should also be undertaken for oil and gas development for the Grand Junction Field Office.

The National Environmental Policy Act (NEPA) intends that human health be thoroughly considered in any Environmental Impact Statement. Congress stated that "...it is the continuing responsibility of the Federal Government to use all practicable means...to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may...assure for all Americans safe, healthful, productive and aesthetically and culturally pleasing surroundings.." and "...attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences..."<sup>6</sup> NEPA implementing regulations direct agencies to consider "the degree to which the proposed action affects public health or safety."<sup>7</sup> These regulations also state that Federal agencies shall to the fullest extent possible "Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment."<sup>8</sup>

Two recent papers authored by environmental health experts at the University of Colorado's School of Public Health recently examined available information regarding the health effects of oil and gas drilling and production. Among their findings is that: "Most of the hazardous chemicals associated with oil and gas production are well documented to produce adverse health effects in individuals."<sup>9</sup> They also looked at information specific to Garfield County.<sup>10</sup> Some of their conclusions that are specifically relevant to the upcoming RMP revisions include:

- Air and water quality studies conducted to date indicate that potential exposures to hazardous emissions exist.
- Many air toxics are essentially unmeasured in Garfield County and current plans for further air sampling may not be comprehensive enough to enable public health officials to determine the community health impact of oil and gas development.
- Preliminary testing results indicate that ozone levels in some places are exceeding National Ambient Air Quality Standards and may be hazardous to humans.
- There are no plans for comprehensive and systematic monitoring of surface and subsurface waters.
- Environmental monitoring must be relevant to the areas where oil and gas development activity is occurring and the results must be readily available to the public. Unbiased

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<sup>5</sup> See The Northeast National Petroleum Reserve-Alaska Draft Supplemental Integrated Activity Plan/Environmental Impact Statement, available at :

[http://www.blm.gov/ak/st/en/prog/planning/npra\\_general/ne\\_npra/northeast\\_npra\\_draft.html](http://www.blm.gov/ak/st/en/prog/planning/npra_general/ne_npra/northeast_npra_draft.html)

<sup>6</sup> 42 USC § 4331

<sup>7</sup> 40 CFR 1508.27(b)2

<sup>8</sup> 40 CFR 1500.2(f)

<sup>9</sup> Witter, R. et al, " Potential Exposure-Related Human Health Effects of Oil and Gas Development: A Literature Review (2003-2008)," August 1, 2008, [http://docs.nrdc.org/health/files/hea\\_08091702b.pdf](http://docs.nrdc.org/health/files/hea_08091702b.pdf).

<sup>10</sup> Witter, R. et al, "Potential Exposure-Related Human Health Effects of Oil and Gas Development: A White Paper," September 15, 2008, [http://docs.nrdc.org/health/files/hea\\_08091702a.pdf](http://docs.nrdc.org/health/files/hea_08091702a.pdf).

interpretation of the results must occur in a timely manner and be made available to the public.

- It is important not to ignore what is already known. There is an immediate need for specific information on exposures and the impact from oil and gas development on all aspects of human health.
- An adequate monitoring program should be developed through a rigorous scientific process that addresses all currently recognized data gaps and health risks. This process should be developed in a transparent and explicitly unbiased way.
- A Health Impact Assessment (HIA) is a practical tool to evaluate future impacts, alternatives and appropriate strategies to promote and protect human health.

***Recommendations:*** The BLM should incorporate a Health Impact Assessment into the Draft EIS for the Grand Junction RMP.

#### **4. WILDLIFE VIABILITY**

The Grand Junction RMP should incorporate a science-based approach to wildlife management. Given the sizable land management challenges of the coming decades— including federal land management agencies’ response to climate change and the complex natural resource dilemmas associated with climate change (i.e. species adaptation, extreme variability in natural processes)—it is imperative that the BLM, the Grand Junction Field Office and this RMP employ effective and efficient science-based planning and analysis methods to support robust and legitimate decision-making processes.

The effective application of science to land management planning and decision-making requires three “essential ingredients”:

- Well-defined, measurable **standards** (e.g. wildlife population or habitat condition targets), developed via robust public involvement processes
- The employment of science-based **analytical tools** to evaluate compliance with the standards (e.g. population viability analysis, or the spatially explicit Decision Support System recommended by the Western Governor’s Association)
- **Consistent implementation** of science-based analysis and decision-making (i.e. dedicated funding for monitoring and science-based adaptive management processes)<sup>11</sup>

The Grand Junction RMP should consider these essential elements as it moves forward with efforts to respond to the pressing land management challenges of the coming decades – both for wildlife and other resources of the public lands.

##### *Well-defined standards*

Providing functioning habitat for wildlife and ensuring the long-term persistence of wildlife populations are part of the BLM’s responsibilities to manage the public lands for multiple use and sustained yield. FLPMA specifically directs that management of public lands “takes into

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<sup>11</sup> Rohlf, D.J. 2004. Science, Law, and Policy in Managing Natural Resources: Toward a Sound Mix Rather than a Sound Bite. Pages 127-142 in K. Arabas and J. Bowersox, editors. *Forest futures: science, politics, and policy for the next century*. Rowman and Littlefield, Lanham, Maryland, USA.

account the long-term needs of future generations” for wildlife, as well as other resources, and is implemented toward “achievement and maintenance in perpetuity” 43 U.S.C. §§ 1712(c)(1); 1702(c) and (h). Achieving these goals for wildlife can best be realized by establishing well-defined, measurable standards. The use of well-articulated concepts and operational planning practices associated with the literature and practice of population viability assessment may provide Grand Junction land managers with effective and efficient means of applying science-based conservation methods to wildlife planning decisions.

#### *Science-based analytical tools*

In order to adopt a legitimate, efficient and effective science-based planning framework, the Grand Junction Field Office should look to the well-established conservation planning and population viability assessment literature, as well as models employed by other BLM units and neighboring agencies.<sup>12</sup> For example, the neighboring Grand Mesa, Uncompaghre and Gunnison (GMUG) National Forests monitor populations of “management indicator species” to measure the effects of management activities on unmeasured species and to provide insights into the integrity of the ecological systems to which they belong. The use of an indicator or focal species approach, in combination with robust knowledge of the link between species and habitats, allows managers an effective means to apply science-based principles to resource management decisions. Species such as the Red-naped sapsucker and northern goshawk (ponderosa pine ecosystems), Brewer’s sparrow (sagebrush) and Colorado River cutthroat trout (aquatic) have been identified as key indicator species by the GMUG and have also been identified by Colorado’s Comprehensive Wildlife Conservation Strategy and Wildlife Action Plans as species of greatest conservation concern. Indeed, to meet the challenges of 21<sup>st</sup> century land management and conservation, agencies will need to cooperate on vital management planning activities, including the sharing and co-generation of biological information.

Another example of a comprehensive monitoring approach can be found in Appendix 2 - "Implementation, Monitoring, and Evaluation Process" - of the Jack Morrow Hills Coordinated Activity Plan, prepared by the Wyoming BLM, available at: [http://www.blm.gov/pgdata/etc/medialib/blm/wy/field-offices/rock\\_springs/jmhcap/rod.Par.76416.File.dat/31apx02.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wy/field-offices/rock_springs/jmhcap/rod.Par.76416.File.dat/31apx02.pdf) (and **attached**). We particularly note the following, as examples of the sort of detail that should be contained in the Grand Junction RMP:

- Table A17-1 Resource Management Indicators - p. 8
- Table A17-2 Indicator Detail - pp. 9-11
- Table A17-3 Measurement Detail - pp. 12-14
- Figure A17-3 CAP Management Process - p. 16
- Discussion of the JMH CAP - pp. 20-21

#### *Landscape-level planning*

The adoption of a science-based approach to wildlife management, and RMP development generally, is also consistent with the agency’s commitments in the Health Lands Initiative

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<sup>12</sup> See U.S. Department of Agriculture, Committee of Scientists. (March 15, 1999). *Sustaining the People's Lands: Recommendations for Stewardship of the National Forests and Grasslands into the Next Century*, from <http://www.fs.fed.us/emc/nfma/includes/cosreport/Committee%20of%20Scientists%20Report.htm>.

(HLI). HLI is premised on the BLM's recognition of major changes to the landscape arising from population, energy development and global warming. The goal of HLI is "to preserve the diversity and productivity of public and private lands across the landscape." HLI is to be implemented through specific projects, which will "enable and encourage local BLM managers to set priorities across a broader scale and mitigate impacts to an array of resources in ways not previously available to them" and "give managers flexibility to identify lands where a particular resource might be emphasized in order to encourage sustained health and balance across a broader ecosystem or landscape." See, generally, HLI Factsheet at: [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs/healthy\\_lands\\_initiative.Par.80058.File.dat/HLI-National\\_FY09.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/healthy_lands_initiative.Par.80058.File.dat/HLI-National_FY09.pdf). Implementation of the management approach described above will further support efforts to address habitat fragmentation and climate change, which are discussed in later sections of these scoping comments.

By identifying key populations and habitat, and applicable standards, the RMP can develop and incorporate specific, science-based management approaches to promote and maintain viability. For instance, the recently finalized Pinedale (WY) RMP designated the Trapper's Point ACEC in part to "[p]reserve the viability of the big game migration bottleneck," which will be managed to "[e]nsure that no obstruction to the big game migration bottleneck within the Trapper's Point ACEC occurs." Pinedale ROD/Approved RMP, pp. 2-54, 2-56 (available on-line at: [http://www.blm.gov/rmp/wy/pinedale/documents/AEIS/05\\_Record\\_of\\_Decision\\_and\\_Approved\\_Pinedale\\_RMP.pdf](http://www.blm.gov/rmp/wy/pinedale/documents/AEIS/05_Record_of_Decision_and_Approved_Pinedale_RMP.pdf)). A similar approach could be used to address migration corridors in and around the Grand Junction Field Office, both in the RMP and in cooperation with other agencies.

**Recommendations:** The Grand Junction RMP should adopt planning and decision-making processes (including data collection, analysis, and monitoring) that employ measurable planning objectives at multiple biological scales (i.e. fish and wildlife populations, habitat and ecosystem conditions) to ensure viable wildlife populations. This recommendation is strongly echoed by the Western Governors Association's *Wildlife Corridor Initiative* ([www.westgove.org/wga/initiatives/corridors](http://www.westgove.org/wga/initiatives/corridors)) and the Sportsmen for Responsible Energy Development's *Recommendations for Responsible Oil and Gas Development* ([www.sportsmen4responsibleenergy.org](http://www.sportsmen4responsibleenergy.org)).

## **5. SPECIAL STATUS SPECIES/PLANTS**

This section includes recommendations for managing special status species to best protect viable populations and habitats while still adequately managing the other resources in the Grand Junction Field Office. BLM should manage threatened, endangered, and special status species so as to: 1) maintain healthy ecosystems and native biodiversity, 2) maintain and restore thriving populations of rare and imperiled species, and 3) meet BLM's obligations regarding special status species.

We ask that BLM make the conservation and recovery of rare and imperiled species, and the habitat and movement corridors necessary to sustain healthy populations of such species, an explicit management objective of the new Resource Management Plan. Such an objective must be strong enough to preclude authorization of activities—including all phases of oil and gas development (including leasing, exploration, infrastructure construction, drilling, and

reclamation), as well as motorized vehicle use—so as to conserve and recover special status species and moves them toward recovery. The BLM must also ensure that it does not authorize oil and gas leasing activities that will compromise air quality, water quality, opportunities for solitude, plant and wildlife habitat, cultural resources, soil crusts, or any of the other resources that the agency must conserve under its multiple use mandate. The RMP must provide a blueprint for how the BLM will ensure that oil and gas development and travel management will be made compatible with the other aspects of its mission. In some cases, this may mean disallowing development activity or motorized vehicle use altogether. The BLM should not prioritize oil and gas drilling or recreation at the expense of meeting its duties toward such species.

This goal be clearly reflected in the objectives and standards set forth by the new plan. We ask that BLM identify crucial habitat, including movement corridors, necessary to sustain healthy populations of all of the rare and imperiled species present in the Grand Junction Field Office. Crucial habitat for rare and imperiled species, and particularly biologically rich areas, should be protected through ACEC designations. ACECs should be managed such that protection of rare and imperiled species and the ecosystems of which they are a part is emphasized above all other uses. Activities that have the potential to negatively impact rare and imperiled species, or degrade ecosystem health, should not be allowed in ACECs. In addition to protecting key habitat with ACEC designations, we ask that the new Resource Management Plan work to avoid habitat for rare and imperiled species whenever possible in areas that will be open to activities, such as oil and gas development, off road vehicle use, and livestock grazing, that have the potential to negatively impact rare and imperiled species. The new plan should also strive to apply minimization and mitigation measures that will clearly ensure that activities authorized on BLM lands through the plan, will not contribute to declines of rare and imperiled species.

a. ACEC Designation

Both FLPMA and the BLM's ACEC Manual (1613) emphasize the BLM's important duty to designate and protect Areas of Critical Environmental Concern. For example, FLPMA states:

The Congress declares that it is the policy of the United States that - ...  
regulations and plans for the protection of public land areas of critical  
environmental concern be promptly developed...FLPMA Title I Sec.102(a) [43  
USC 1701]

The Secretary shall prepare and maintain on a continuing basis an inventory of all  
public lands and their resource and other values (including, but not limited to,  
outdoor recreation and scenic values), giving priority to areas of critical  
environmental concern. FLPMA Title II Sec. 201(a) [43 USC 1711]

In the development and revision of land use plans, the Secretary shall - ...  
give priority to the designation and protection of areas of critical environmental  
concern....FLPMA Title II Sec. 202(c) [43 USC 1712]

Therefore, ACEC designation and protective management are supposed to be a high priority within the BLM's mission. ACEC designation provides an important mechanism for the BLM to actively conserve and recover imperiled species so that the protections afforded by the Endangered Species Act and the designation of Critical Habitat are less necessary. Choosing not to conserve ACECs may contribute to the need to list species under the Act, and is inconsistent with the BLM's special status species obligations.

b. Special Status Species Management

We anticipate that the recent changes to the BLM Manual weakening protections for special status species will be overturned by the Obama administration. Therefore we encourage the Grand Junction Field Office to ensure that it meets the obligations outlined in the special status species portion of the Manual as it appeared before it was weakened and note that these measures are still consistent with the direction of the manual as revised. BLM Manual 6840.06.D set forth the policy for management of Sensitive species:

State Directors, usually in cooperation with state wildlife agencies, may designate sensitive species. By definition, the sensitive species designation includes species that could easily become endangered or extinct within a state. Therefore, if sensitive species are designated by a State Director, the protection provided by the policy for candidate species shall be used as the minimum level of protection.

Therefore, the BLM must provide Sensitive species with a minimum of candidate-level protection. Candidate species were to be managed as follows:

BLM shall carry out management, consistent with the principles of multiple use, for the conservation of candidate species and their habitats and shall ensure that actions authorized, funded, or carried out do not contribute to the need to list any of these species as threatened/endangered. Specifically, BLM shall:

Determine the distribution, abundance, reasons for the current status, and habitat needs for candidate species occurring on lands administered by BLM, and evaluate the significance of lands administered by BLM or actions in maintaining those species.

For those species where lands administered by BLM or actions have a significant affect on their status, manage the habitat to conserve the species by:

Including candidate species as priority species in land use plans.

Developing and implementing rangewide and/or site-specific management plans for candidate species that include specific habitat and population management objectives designed for recovery, as well as the management strategies necessary to meet those objectives.

Ensuring that BLM activities affecting the habitat of candidate species are carried out in a manner that is consistent with the objectives for those species.

Monitoring populations and habitats of candidate species to determine whether management objectives are being met.

Request technical assistance from FWS/NMFS, and any other qualified source, on any planned action that may contribute to the need to list a candidate species as threatened/endangered. BLM Manual 6840.06.C

During RMP revision, the BLM must take a hard look at whether it is meeting these obligations, and make any necessary changes to ensure that special status species are being adequately managed so that the agency is complying with the Manual.

The BLM has special duties toward special status species when conducting land use planning. First, the BLM must "[i]dentify watersheds that may need special protection from the standpoint of human health concerns, aquatic ecosystem health, or other public uses." BLM Land Use Planning Handbook H-1601-1, Appendix C at 2. For riparian areas within these watersheds, the BLM must also identify desired width/depth ratios, streambank conditions, channel substrate conditions, and large woody material characteristics." *Id.* Second, BLM must "[d]esignate priority plant species and habitats, including Special Status Species and populations of plant species recognized as significant for at least one factor such as density, diversity, size, public interest, remnant character, or age." BLM Land Use Planning Handbook H-1601-1, Appendix C at 3. Finally, BLM must "[d]esignate priority species and habitats, including Special Status Species, and populations of fish or wildlife species recognized as significant for at least one factor such as density, diversity, size, public interest, remnant character, or age." BLM Land Use Planning Handbook H-1601-1, Appendix C at 7.

BLM must also identify the measures necessary for protecting each of these priority areas and species:

For priority watersheds and riparian areas, "[i]dentify measures, including filing for water rights under state permit procedures, to ensure water availability for multiple use management and functioning, healthy riparian and upland systems." BLM Land Use Planning Handbook H-1601-1, Appendix C at 2.

For priority plant species and habitats, "[i]dentify the actions and areawide use restrictions needed to achieve desired vegetative conditions." BLM Land Use Planning Handbook H-1601-1, Appendix C at 3.

For priority populations, species, or habitats of fish and wildlife, "[i]dentify actions and areawide use restrictions needed to achieve desired population and habitat conditions while maintaining a thriving natural ecological balance and multiple-use relationships." BLM Land Use Planning Handbook H-1601-1, Appendix C at 7.

Also, BLM must "[i]dentify site-specific actions, such as riparian fencing, guzzler placement, etc., needed to manage ecosystems for all species and habitat for special status species." BLM Land Use Planning Handbook H-1601-1, Appendix C at 7.

Additionally, BLM must:

Identify strategies and decisions to conserve and recover special status species. Given the legal mandate to conserve threatened or endangered species and BLM's policy to conserve all Special Status Species, land use planning strategies and decision should result in a reasonable conservation strategy for these species. Land use plan decisions should be clear and sufficiently detailed to enhance habitat or prevent avoidable loss of

habitat pending the development and implementation of implementation-level plans. This may include identifying stipulations or criteria that would be applied to implementation actions. Land use plan decisions should be consistent with BLM's mandate to recover listed species and should be consistent with objectives and recommended actions in approved recovery plans, conservation agreements and strategies, MOUs, and applicable biological opinions for threatened and endangered species.

BLM Land Use Planning Handbook H-1601-1, Appendix C at 5. The BLM Manual's definition of a "Conservation Strategy" states:

A strategy outlining current activities or threats that are contributing to the decline of a species, along with the actions or strategies needed to reverse or eliminate such a decline or threat. Conservation strategies are generally developed for species of plants and animals that are designated as BLM Sensitive species or that have been determined by the Fish and Wildlife Service or National Marine Fisheries Service to be Federal candidates under the Endangered Species Act.

BLM Manual § 1601, Glossary at 2.

**BLM must manage oil and gas development in a way that retains special status species and moves them toward recovery.**

As we have noted in our citations of FLPMA and the BLM Manual above, the BLM has a mandate to conserve imperiled species. The agency cannot prioritize oil and gas drilling or recreation at the expense of meeting its duties toward special status species. This includes all aspects of oil and gas development, including associated motorized vehicle use – the BLM must ensure that its authorized activities do not compromise air quality, water quality, opportunities for solitude, plant and wildlife habitat, cultural resources, soil crusts, or any of the other resources that the agency must conserve under its multiple use mandate. The RMP must provide a blueprint for how the BLM will ensure that oil and gas development (all phases, including leasing, exploration, infrastructure construction, drilling, and reclamation) and associated motorized use will be made compatible with the other aspects of its mission. In some cases, this may mean disallowing development activity altogether.

**The RMP revision must address noxious weeds and propose mitigation strategies.**

Noxious weeds are a real threat throughout the West, and this is especially true in areas that may become infested with cheatgrass, and in places where soils are actively being disturbed. The BLM must limit surface disturbance whenever possible and implement Integrated Pest Management strategies in conjunction with all surface-disturbing activities in order to contain noxious weeds. The agency must monitor the efficacy of noxious weed containment after surface disturbance, and use the results of the monitoring to both provide realistic analyses of the effects of disturbance in planning for future projects, and to design projects that are more resistant to noxious weed proliferation. RMP revision should seriously address this threat.

**The BLM must have a proven track record of successful reclamation before considering disturbances to be “temporary”.**

The BLM has shown interest lately in phased or rolling development, but this framework assumes that managers are able to successfully reclaim areas that have been disturbed. We consider successful reclamation to consist of a return to baseline conditions, which would mean a return to the pre-disturbance vegetative composition and structure, retention of the original soil type, and recolonization by the animals that used an area prior to disturbance. We remain concerned that these results may be very difficult to achieve here in the arid West, where lack of precipitation and an abundance of invasive species may prevent even the best management practices or Conditions of Approval from being effective. Before the BLM adopts this approach, or even uses it to calculate acres of “temporary” versus “permanent” disturbance, it should be able to point to a proven track record of mature, successful reclamation projects demonstrating that this is possible and that the BLM has the ability (including funding) to make this an outcome with a reasonable expectation of being fulfilled. RMP revision should clearly state reclamation standards including necessary monitoring, and should define success in an ecologically sound way.

**Dust abatement is a growing concern on BLM lands.**

With the explosion of surface-disturbing activities on BLM lands in Colorado, we are increasingly concerned about indirect effects, including dust deposition. Dust may harm rare species and/or their pollinators, or facilitate the establishment of nonnatives. RMP revision should thoroughly address dust abatement requirements, and the BLM should actively monitor dust deposition associated with surface disturbance as well as the effects on imperiled species, pollinators, and noxious weed proliferation.

**The BLM should consider input from regional conservation plans.**

Several regional conservation plans have been developed which include these Field Offices. The BLM should consult the following sources during the RMP revision:

Southern Rockies Ecosystem Project's Southern Rockies Wildland Network Design  
The Nature Conservancy's Colorado Plateau Ecoregional Plan  
The Nature Conservancy's Southern Rocky Mountains Ecoregional Plan  
Heart of the West Conservation Plan

Roadless areas, Citizens' Proposed Wilderness, wildlife corridors identified by Southern Rockies Ecosystem Project, and Colorado Natural Heritage Program Networks of Conservation Areas not mentioned above are also important resources that the BLM should consider in this round of planning.

**The BLM should retain existing ACECs and consider strengthening the protective management attached to them.**

Other Field Offices have recently attempted to remove protections from ACECs during the RMP revision process. Instead, the BLM should carefully review existing management, ensure that the agency is meeting its obligations under the BLM Manual, and strengthen protections in these areas if necessary. Again, ACEC protection is one of the main tools at the BLM's disposal to conserve imperiled species, and the agency must take this responsibility seriously.

c. Rare Plant Habitat

The BLM is a partner of the Center for Native Ecosystems in the Colorado Rare Plant Initiative, which is in the process of finalizing a set of best management practices for oil and gas drilling in rare plant habitat. Until those are available, we encourage the BLM to adopt the following prescriptions in ACECs designated because of their rare plant values, and to consider applying these in other rare plant habitats as well:

Fluid-Mineral Development (including but not limited to oil and gas development):

- Make all areas that have not yet been leased throughout the entire ACEC unavailable for fluid mineral leasing, or apply No Surface Occupancy (NSO) stipulations to all such areas, with no opportunity for modification, waiver, or exception under any circumstances.
- Make all existing fluid-mineral leases within the ACEC unavailable for future leasing following expiration; or, when existing fluid-mineral leases expire, apply NSO stipulations (with no opportunity for modification, waiver, or exception under any circumstances) prior to reissue of such leases.
- Apply right-of-way exclusion throughout the entire ACEC.
- Consider buying back existing fluid-mineral leases within the ACEC.

Site Inventories:

- When surface disturbing projects are proposed within the ACEC, site-specific inventories should be conducted prior to NEPA analysis, and prior to initiation of any project activities.
- These site-specific surveys should be required in any known or potential habitats, and must take place when the plants can be detected, for example, during the flowering period.
- Surveys should document both individual plant locations and suitable habitat distributions.
- All surveys should be conducted by qualified individuals.
- Survey data should also be reported to the Colorado Natural Heritage Program.

Monitoring:

- Surface disturbing activities should be monitored throughout the duration of the project, and measures designed to minimize impacts should be evaluated to ensure that desired results are being achieved.

Project design:

- Establish a buffer of a minimum of 300 feet between individuals or groups of rare plants/lichens and any ground disturbing activities.
- Translocation of rare plants/lichens shall not be used as a substitute for avoidance.
- Construction should occur down slope of rare plants/lichens, and all project activities should be designed to avoid concentrating water flows or sediments into rare plant/lichen occupied habitat.
- Visibly identify areas that are to be avoided during and post-construction with temporary fencing and flagging
- For surface pipelines use a 300 foot buffer from any rare plant/lichens locations. If on a slope, use stabilizing construction techniques to ensure the pipelines don't move toward

the population.

- Ensure that water extraction or disposal practices do not result in change of surface or subsurface hydrologic regime.
- Limit disturbances to and within suitable habitat by staying on designated routes
- Limit new access routes created by the project, minimize the length and environmental impact of new roads constructed to service well locations, and utilize existing roads to the maximum degree possible.
- Place signing to limit motorized travel in sensitive areas.
- Require implementation of dust abatement practices near occupied rare plant/lichen habitat.
- For interim reclamation, either require that all disturbed areas be revegetated with native species comprised of species indigenous to the area (ideally from local genetic stock), or if there are major problems with preventing establishment of noxious weeds, require that disturbed areas be revegetated with either sterile F1 hybrids or with locally appropriate early successional native species capable of outcompeting weeds while also seeding for indigenous natives at the same time.
- For final reclamation, require that the area be revegetated with native species indigenous to the area and that vegetative structure, species composition, and percent cover have returned to baseline conditions (or improved, for sites in poor condition to begin with).
- Require post construction monitoring for invasive species, and specific measures for the control of noxious weeds. Enforce these measures through use of fines and suspension of activities when failure to control noxious weeds is documented.
- Require use of directional drilling or multiple wells from the same pad to reduce surface disturbance and eliminate drilling in rare plant/lichen habitat. Ensure that such directional drilling does not intercept or degrade alluvial aquifers.
- Restrict the total area of each pad to the least amount of acreage required to drill the wells planned for that pad.
- Close and reclaim roads as soon as they are no longer needed, and gate them to prevent unauthorized use.
- Use busing or van transportation of crews and remote monitoring of wells to minimize truck traffic and associated dust.
- Identify rare plant pollinators, and develop mitigation and minimization measures that provide adequate protection to pollinator species.
- Conduct routine site visits for permit compliance, set timelines for fixing permit violations, and issue fines for not meeting requirements.
- In addition to requiring the above as conditions of approval for APDs, ask operators to undertake any additional voluntary measures that would further minimize or mitigate the negative impacts of their activities on rare plant populations and the ecological integrity of the ACEC.

Other ground-disturbing activities:

- Apply a No Ground Disturbance restriction to the entire ACEC with specific authorization for an exception only for management activities that are necessary to conserve the ecological integrity of the ACEC and that further conservation goals for the values for which the ACEC was designated. For example, an exception could be made

for construction of fencing/exclosures when needed to further rare plant conservation goals.

- Designate the entire ACEC as a right-of-way Exclusion Area.

Non-fluid mineral development:

- Withdraw the ACEC from mineral entry.
- Apply the No Ground Disturbance restriction discussed above to existing non-fluid mineral leases.

Travel management:

- Limit use of roads to designated routes.
- Close routes that affect important habitat for these rare plants/lichens in order to limit dust, invasion of habitat by noxious weeds, and illegal off-road vehicle (ORV) use.
- Close the entire ACEC to ORV use.

Non-motorized recreation:

- Encourage those engaging in non-motorized recreation to use designated roads and trails, and to avoid important habitat for these rare plants.
- Prohibit overnight camping and campfires within 300 feet of rare plant/lichen populations.

Grazing:

- Retire grazing allotments within the ACEC whenever possible
- Prohibit treatments designed to increase forage for livestock, including seeding and irrigation.
- If trampling by livestock is identified as a concern where grazing allotments exist, create cattle exclosures around rare plant/lichen populations, and include a 300 foot buffer within the exclosure to minimize indirect effects of grazing on rare plant populations.
- Manage livestock grazing within occupied or potential habitat for rare plants/lichens to promote plant health, maintain sufficient residual vegetation, minimize potential for trampling, minimize potential for invasion of non-native plant species, and sustain overall watershed functions.

Lands and realty:

- Work towards acquisition of private inholdings.
- Apply right-of-way exclusion to entire ACEC.
- Establish memorandums of understanding with willing landowners to encourage private land management actions that enhance protection of ACEC values on and adjacent to private inholdings (*e.g.*, control of noxious weeds).

Management of noxious weeds:

- Promote natural processes and healthy native plant/lichen communities to deter noxious weeds.
- Minimize fragmentation of habitat and associated risk of invasion by noxious weeds and other aggressive non-native species.

- Develop an integrated weed management program that emphasizes prevention, inventory, detection and monitoring, and includes control techniques (e.g., mechanical and hand-applied herbicides) that will not damage rare plant/lichen species, or other non-target species.
- Where practicable, eliminate any existing human-caused disturbance that is contributing to the spread of noxious weeds.
- Continue and expand public education.

Other:

- Prohibit collection of plants, plant materials and seeds, except for scientific or research purposes. Such collection must have no detrimental impact on long-term survival and reproduction of rare species or significant communities.
- Where practicable, restore to a naturally functioning state any existing human-caused disturbance that is impairing natural ecosystem processes affecting habitat for rare plant species or significant plant communities.
- Cooperate with the Colorado Natural Heritage Program to develop and carry out a plan to inventory and monitor plant/lichen species, unique natural communities, and to monitor the overall ecological integrity of the ACEC.
- Cooperate with the Colorado Natural Heritage Program and other entities to allow for and facilitate additional research on rare and imperiled species and unique natural communities.
- If monitoring identifies new threats or suggests that the management recommended above is not adequately protecting rare plant/lichen populations and/or unique natural communities from significant negative impacts (including indirect or cumulative impacts), take appropriate action to prevent such negative impacts.

d. Imperiled Species in the Planning Area

We believe that the BLM possesses current information from the Colorado Natural Heritage Program regarding occurrences of rare and imperiled species within the Grand Junction Field Office. We would like to draw your attention to the following species occurrences, which will benefit from special management.

Colorado River fish protected under the Endangered Species Act: The bonytail, humpback chub, Colorado pikeminnow, and razorback sucker are barely hanging on. All four of these species have designated critical habitat within the Field Office. The BLM must consult with the U.S. Fish and Wildlife Service over not only the depletions that result from actions authorized by the RMP, but also over habitat degradation and potential adverse modification of critical habitat. Selenium is a major concern for these species, and surface disturbance caused by oil and gas drilling or ORV use may further endanger these species which are already on the brink of extinction. In addition, the effects to these species from the vast amounts of water that will be necessary to facilitate numerous energy development projects in the upper Colorado River Basin must be considered in the Draft RMP's effects analysis under NEPA.

Lynx: Multiple Lynx Analysis Units are found within the Field Office. The BLM has allowed its Conservation Agreement for lynx to lapse, and therefore may not be in compliance with the

Biological Opinion that covered the agency while Land Use Plans were being revised for lynx. The BLM must consult with the Service with regard to lynx as soon as possible.

Colorado hookless cactus: The Service has recognized the official taxonomic change that now defines *Sclerocactus glaucus* as only occurring in Colorado. The BLM must analyze impacts to this species using its currently defined range. The taxonomic change has increased the rarity of this species. We continue to urge the BLM not to open important habitat for this species in the South Shale Ridge area to oil and gas drilling.

Greater sage-grouse and Gunnison sage-grouse: We are awaiting findings on petitions for Endangered Species Act protection for the greater sage-grouse, which is being negatively affected by oil and gas drilling. In addition, some of our organizations are challenging the Service's decision not to protect the Gunnison sage-grouse under the Act. The Inspector General for the Interior Department recently found that illegal political interference jeopardized the integrity of that decision, so conservation groups are likely to prevail in the lawsuit. The Endangered Species Coalition recently named the Gunnison sage-grouse one of the top ten most endangered species still lacking protection under the Act. The BLM must demonstrate that adequate regulatory mechanisms are in place to avoid extinction of these two species. In addition, the BLM must use all available measures to conserve all remaining populations and eventually work to recover the species throughout its former range. It is extremely important that the new plan focus on conserving and recovering all of the seasonal habitat types necessary to the species. Further, BLM should protect not only occupied habitat, but also historic and potential habitat. BLM should also work to maintain connectivity between populations of these two species. We note that habitat for these two species in the area crosses land ownership boundaries, and that much of the habitat for these species is on split estate lands adjacent to BLM lands, where the surface is under other land ownerships, but the subsurface mineral rights are federally owned. BLM has a responsibility to ensure that development of federally owned minerals does not negatively impact sage-grouse habitat, even when the habitat itself is not on BLM-managed lands.

We recommend that the new plan apply the following management prescriptions to both greater sage-grouse and Gunnison sage-grouse. The management prescriptions outlined below under the headings 'fluid mineral development' and 'non-fluid mineral development' should also be applied to split estate lands that contain sage-grouse habitat, where the mineral rights are federally owned and managed by the Grand Junction BLM Field Office. The following management prescriptions are needed in order for BLM to maintain and expand the sage-grouse populations present in the Grand Junction Field Office. They are supported by the best available science, and take a precautionary approach to management of sage-grouse that is necessary in order to prevent continued declines and eventual extinction of these species. The list below is not a comprehensive list of all the special management prescriptions that might be needed, but rather a preliminary list of special management prescriptions that should be considered as part of the planning process.

BLM should use existing Colorado Division of Wildlife data to delineate habitat currently used by greater sage-grouse and Gunnison sage-grouse, and historical and potential habitat that is important to long-term viability and recovery of greater and Gunnison sage-grouse populations. This should be done on lands managed by the Grand Junction Field Office, and on adjacent split

estate lands where GJFO BLM manages federal minerals. Apply the following management prescriptions to this habitat:

Fluid Mineral Development (including but not limited to oil and gas development):

- Make all sage-grouse habitat that has not yet been leased throughout the entire field office unavailable for fluid mineral leasing, or apply No Surface Occupancy (NSO) stipulations to all such areas, with no opportunity for modification, waiver, or exception under any circumstances.
- Make all existing fluid-mineral leases within sage-grouse habitat unavailable for future leasing following expiration; or, when existing fluid-mineral leases expire, apply NSO stipulations (with no opportunity for modification, waiver, or exception under any circumstances) prior to reissue of such leases.
- Consider buying back existing fluid-mineral leases in sage-grouse habitat.
- Apply right-of-way exclusion throughout sage-grouse habitat.

If mineral leasing occurs in sage-grouse habitat:

- Apply a NSO stipulation (with no opportunity for modification, waiver, or exception under any circumstances) to lands within 6.4 kilometers (4.0 miles) of sage-grouse leks year round.
- Do not allow any activity (including use of existing roads and trails etc.) that creates audible noise or human disturbance within 6.4 km. of a lek, until research has identified the decibel level at which noise negatively affects lek attendance, and until research clearly identifies a minimum buffer distance at which negative impacts of human disturbance on lek attendance will be effectively prevented. At a minimum, use mufflers on pump jacks and ancillary structures to ensure noise levels do not exceed 45dB within 5km (3.1 miles) of a lek.
- Apply a NSO stipulation (with no opportunity for modification, waiver or exception under any circumstances) to lands that have been identified as important winter habitat, year round.
- Limit development to one well or less per square mile in sage-grouse habitat.

#### Fluid Mineral Development (including but not limited to oil and gas development) Within Lease Rights

The following minimization and mitigation measures should be included as conditions of approval for any application for permit to drill on existing leases within sage-grouse habitat, or strongly encouraged as voluntary measures when it is not possible to include them as conditions of approval:

Site inventories and monitoring:

- Monitor sage-grouse populations, and where surface disturbing activities are proposed, ensure use of a monitoring methodology appropriate to detect population declines or other potential negative impacts of such activities, and to evaluate the efficacy of measures being used to minimize and mitigate impacts.
- Surface disturbing activities should be carefully monitored throughout the duration of the project. This monitoring should be used to ensure that measures designed to minimize

impacts are being implemented, and that they are achieving the desired results. Put measures in place so that specific actions to address problems will be triggered when monitoring identifies issues with implementation or efficacy of minimization and mitigation measures.

#### Project design:

The following mitigation measures should be made mandatory when possible within lease rights. When it is not possible to make them mandatory within lease rights, strongly encourage voluntary implementation of these recommended measures.

- Allow no surface occupancy within a minimum of a 6.4 kilometer (4.0 mile) radius of the outer boundary of sage-grouse leks, even when activities will take place on BLM surface within 4 miles of a sage-grouse lek that is on adjacent lands under other ownership.
- Do not allow any activity (including use of existing roads and trails etc.) that creates audible noise or human disturbance within 6.4 km. of a lek, until research has identified the decibel level at which noise negatively affects lek attendance, and until research clearly identifies a minimum buffer distance at which negative impacts of human disturbance on lek attendance will be effectively prevented. At a minimum, use mufflers on pump jacks and ancillary structures to ensure noise levels do not exceed 45dB within 5km (3.1 miles) of a lek.
- Require all existing and new compressor stations within the ACEC to add noise abatement devices to reduce audible noise, if it is demonstrated that existing compressor stations are disturbing sage-grouse, even with noise abatement devices, consider relocating such stations at a greater distance from the lek in question.
- Do not allow construction of surface pipelines within 6.4 km. of a lek.
- Prepare a GAP for development within and adjacent to sage-grouse habitat and plan/cluster development so as to preserve large blocks of sagebrush habitat, minimize fragmentation and limit disturbances to and within occupied and suitable habitat. Do not limit preparation of a GAP to development within 4 miles of a lek, rather, prepare a GAP for any development within occupied and suitable sage-grouse habitat.
- Close and revegetate existing roads within 6.4 km of leks.
- Ensure that water extraction or disposal practices do not result in change of surface or subsurface hydrologic regime.
- Limit disturbances to and within suitable habitat by staying on designated routes
- Limit new access routes created by the project, minimize the length and environmental impact of new roads constructed to service well locations, and utilize existing roads to the maximum degree possible, avoid new road construction within 6.4 km of leks and in important winter habitat, plan road construction to minimize fragmentation.
- Place signing to limit motorized travel in sensitive areas.
- For interim reclamation, either require that all disturbed areas be revegetated with native species comprised of species indigenous to the area (ideally from local genetic stock), or if there are major problems with preventing establishment of noxious weeds, require that disturbed areas be revegetated with either sterile F1 hybrids or with locally appropriate early successional native species capable of outcompeting weeds while also seeding for indigenous natives at the same time. Take measures to ensure that native seed mixes purchased for revegetation are not contaminated with cheatgrass.

- For final reclamation, require that the area be revegetated with native species indigenous to the area and that vegetative structure, species composition, and percent cover have returned to baseline conditions (or improved, for sites in poor condition to begin with). Take measures to ensure that native seed mixes purchased for revegetation are not contaminated with cheatgrass.
- Require post construction monitoring for invasive species, and appropriate specific measures for the control of noxious weeds (see section on noxious weeds below). Enforce these measures through use of fines and suspension of activities when failure to control noxious weeds is documented.
- Require use of directional drilling or multiple wells from the same pad to reduce surface disturbance and eliminate drilling in occupied and suitable habitat. Ensure that such directional drilling does not intercept or degrade alluvial aquifers.
- Restrict the total area of each pad to the least amount of acreage required to drill the wells planned for that pad.
- Close and reclaim roads as soon as they are no longer needed, and gate them to prevent unauthorized use.
- Use busing or van transportation of crews and remote monitoring of wells to minimize truck traffic and associated disturbance, and take any other measures available to reduce vehicle speed, frequency and noise.
- Conduct routine site visits for permit compliance, set timelines for fixing permit violations, and issue fines for not meeting requirements.
- Put permanent or, at a very minimum, seasonal closures on roads within breeding and winter habitat (1 March -20 June, and December-February).
- Place power lines only along road corridors, bury powerlines, and fit all structures that are potential raptor perch sites with devices to deter perching.
- Ask operators to undertake any additional voluntary measures that would further minimize or mitigate the negative impacts of their activities on sage-grouse habitat.

#### Non-fluid mineral development:

- Withdraw the sage-grouse habitat from mineral entry.
- Apply a No Ground Disturbance restriction to sage-grouse habitat, including existing mineral leases, with specific authorization for an exception only for management activities that are necessary to conserve sage-grouse habitat, and that further conservation goals for the values for sage-grouse. For example, an exception could be made for habitat restoration and enhancement activities when needed to further sage-grouse conservation goals.
- Designate sage-grouse habitat as a right-of-way Exclusion Area.

#### Other ground-disturbing activities/development/structures:

- Apply a No Ground Disturbance restriction to sage-grouse habitat, including existing mineral leases, with specific authorization for an exception only for management activities that are necessary to conserve sage-grouse. For example, an exception could be made for habitat restoration and enhancement activities when needed to further sage-grouse conservation goals.
- Designate sage-grouse habitat as a right-of-way Exclusion Area.

- Fences should be constructed of metal, not wood, be no more than three strands with the top and bottom wires barbless. Unused fences should be removed. If possible, avoid placing fences within 6.4 km radius around leks, and remove existing fences within this buffer distance. Do not allow fences within a minimum of a 3.2 km (2 mile) radius around leks.
- Apply a No Ground Disturbance Restriction to sage-grouse habitat to limit potential for future impacts associated with Wind Energy Development (which could potentially have impacts very similar to those of oil and gas).
- Do not place new power poles within sage-grouse habitat, particularly within a 6.4 kilometer (4 mile) buffer of leks. Power poles and other existing human structures within sage-grouse habitat should be removed, if not used, or fitted with raptor and collision deterrent devices.

#### Travel management:

- Limit use of roads to designated routes.
- Close routes within sage-grouse habitat, (particularly any within 6.4 km. of a lek, or in important seasonal habitats, or that fragment potential dispersal corridors), in order to limit disturbance, fragmentation, invasion of habitat by noxious weeds, and illegal off-road vehicle (ORV) use. When roads cannot be closed, place appropriate seasonal closures on their use in breeding and winter habitat.
- Close sage-grouse habitat to ORV use.
- Allow no new road construction in sage-grouse habitat (this could be achieved through application of the No Ground Disturbance restriction discussed above).

#### Non-motorized recreation:

- Encourage those engaging in non-motorized recreation (including hikers, mountain bikers, etc.) to use designated trails, and to avoid important sage-grouse habitat. Close trails within 6.4 km. of leks, and implement seasonal closures on trails located in important breeding and winter habitat.
- Prohibit overnight camping and campfires within 6.4 kilometers of leks.
- Do not allow lek viewing at a majority of leks, if viewing is allowed, take appropriate measures to monitor impacts and to ensure disturbance does not occur. If impacts are observed, immediately close lek to viewing.
- Do not allow dogs within 6.4 miles of leks, encourage use of leashes within sage-grouse habitat.

#### Grazing:

- Actively work to retire grazing allotments within sage-grouse habitat.
- Use creative solutions such as cooperating with outside organizations to facilitate grazing permit buyout, or giving current permittees' grazing permits in areas on other portions of GJFO outside of sage-grouse habitat in exchange for extinguishing permits/reducing AUMs/reducing spring grazing within sage-grouse habitat.
- Include a review of the socioeconomic costs of public buyout (through outside organizations) of grazing permits in sage-grouse habitat as part of the RMP.
- In areas where vegetation is in poor condition due to fire, drought, past grazing, defer grazing for three years or more to allow recovery of herbaceous native vegetation.

- Manage livestock grazing so that it does not remove more than 25-30% of the annual growth of herbaceous vegetation, and delay grazing until after June 20<sup>th</sup>.
- Use true rest rotation systems. Reduce spring grazing (winter grazing is preferred).
- Where wildlife objectives cannot be achieved through legal hunting, reintroduction and expansion of populations of large predators should be encouraged.
- Rangeland seedings of exotic grasses should be converted using reseeded strips of native bunchgrasses, adapted subspecies or species of sagebrush and other native plant species.
- For recommendations regarding fences – see the section on surface disturbing activities and structures.

#### Lands and realty:

- Work towards acquisition of private inholdings or adjacent lands that contain important sage-grouse habitat.
- Apply right-of-way exclusion to sage-grouse habitat.
- Establish memorandums of understanding with willing landowners to encourage private land management actions that enhance protection of sage-grouse habitat on adjacent private lands and private inholdings (*e.g.*, control of noxious weeds).

#### Fire management:

- Implement measures outlined in the Rangewide Conservation Plans, but incorporate the following additional recommendations.
- Do not implement prescribed fires that are larger than 20 ha, and burn no more than 40% of each cadastral section over a 15 year period.
- Vigorously suppress wildfires in sagebrush steppe except in areas with >20 invasive conifer trees per hectare.
- Defer livestock grazing for three years following fires for recovery of herbaceous native vegetation.

#### Noxious and invasive weed management, pest management:

- Promote natural processes and healthy native plant communities to deter noxious weeds.
- Minimize fragmentation of habitat and associated risk of invasion by noxious weeds and other aggressive non-native species.
- Develop an integrated weed management program that emphasizes prevention, inventory, detection and monitoring, and includes control techniques (*e.g.*, mechanical and appropriate hand-applied herbicides) that will not damage sage-grouse, or other non-target species.
- Actively control cheatgrass through use of control techniques that will not damage sage-grouse or other non-target species.
- Where practicable, eliminate any existing human-caused disturbance that is contributing to the spread of noxious weeds.
- Continue and expand public education.
- Use reduction of livestock grazing (particularly in spring) to control spread of cheatgrass and other non-native species, and avoid reduction in the competitive ability of native plants.

Habitat enhancement/restoration/improvement and vegetation management:

- Prioritize protection of existing high quality habitat and measures to minimize fragmentation and degradation of such habitat, then engage in restoration.
- Engage with working groups to restore vegetation for sage-grouse, through planting native plants, controlling cheatgrass, etc. Use the restoration guidelines developed by the working groups.
- Do not permit use of chemicals to manage sagebrush. If sagebrush is to be managed to reduce density or enhance vigor, mechanical methods are preferred.

Water:

- Allow water to flow over the ground to encourage the growth of succulent forbs.
- Do not allow activities that lower the water table, or otherwise impact quality and quantity of water in available natural water sources.

Disease:

- Manage pits and ponds associated with oil and gas development to limit facilitation of the spread of West Nile Virus.
- Monitor sage-grouse and other species for the presence of WNV.

Landscape-level management:

- Develop measures in the RMP to maintain potential for connectivity between occupied habitat within the field office, and on adjacent lands. It is particularly important to maintain the potential for connectivity between the Pinon Mesa and San Miguel Basin populations of Gunnison sage-grouse.

Research monitoring and adaptive management:

- Cooperate with the Colorado Division of Wildlife to develop and carry out a plan to inventory and monitor both greater and Gunnison sage-grouse, and to monitor the overall ecological integrity of sage-grouse habitat.
- If monitoring identifies new threats or suggests that the management recommended above is not adequately protecting sage-grouse from significant negative impacts (including indirect or cumulative impacts), take appropriate action to prevent such negative impacts.
- Active leks per unit of area and total number of male sage-grouse counted at proscribed (4 counts per breeding period spaced at 7-10 day intervals) should be used as the measure of success of management treatments followed by changes in % bare ground, % forb coverage, % grass cover, % sagebrush canopy cover, and height of residual herbaceous vegetation.
- Actively follow relevant new research on both Gunnison and greater sage-grouse, and incorporate the results of such research into NEPA analysis and future management.

Information and education:

- Develop a program to educate the public about Gunnison sage-grouse, the need for special management to conserve Gunnison sage-grouse etc.

Pesticides/herbicides:

- Do not use pesticides or herbicides within sage-grouse habitat, unless use is absolutely necessary to protect sage-grouse from particular threats (e.g. to control cheatgrass or to limit the spread of West Nile Virus).

*Parachute penstemon, DeBeque phacelia:* We are awaiting findings on petitions for Endangered Species Act protection for these three species, all of which are being affected by oil and gas drilling. The BLM must show that it possesses and will effectively use adequate regulatory mechanisms to avoid their extinction. This RMP will have a major effect on the status of at least the penstemon and phacelia, and we urge the BLM to make the remaining unleased habitat for these species off-limits to drilling.

*Mountain plover, boreal toad:* Both of these species were removed from the Endangered Species Act Candidate list by the Bush administration under suspect circumstances. A legal challenge has already been brought for the plover and some of our organizations have filed a Notice of Intent to Sue regarding the toad. While the Grand Junction Field Office may not include core habitat for these species, there are occurrence records for both within the area, and these species are at such risk that all suitable habitat must be conserved. We encourage the BLM to seek the expertise of the Service with regard to these species as well.

*Horseshoe Bend milkvetch:* This is a third Endangered Species Act Candidate species that was inappropriately removed from the list by the Bush administration. The Service premised its removal on the existence of the Colorado population. The BLM must actively conserve this species, and the Colorado population will be critical to its survival since the namesake population in Utah is at grave risk from oil and gas drilling. This is another species for which the BLM should seek the Service's expertise while revising the RMP.

*DeBeque milkvetch:* Center for Native Ecosystems intends to challenge the Service's negative finding on the petition some of our organizations filed for Endangered Species Act protection for the milkvetch. The Grand Junction Field Office's management of this species will be critical to its future status. Again we urge the BLM to conserve the remaining unleased habitat for this species by making it off-limits to drilling by unwaivable NSO/NGD stipulations or making it unavailable for leasing.

*White-tailed prairie dog, kit fox, ferruginous hawk, burrowing owl:* Center for Native Ecosystems was pleased to partner with the BLM in the project to provide escape dens and artificial burrows for kit fox, and we encourage the BLM to continue its attempts to hang on to this small remaining population. The BLM should make sure that its investment in kit fox recovery is safeguarded by protecting the project area from surface disturbance and ORV use, and should strongly consider ACEC designation. Kit fox would also be served by bolstering white-tailed prairie dog populations so that artificial dens are less necessary. Some of our organizations submitted management recommendations for white-tailed prairie dogs in 2003, and we are happy to provide these again upon request - these should be incorporated in the RMP revision. Strong white-tailed prairie dog populations would also help promote strong burrowing owl and ferruginous hawk populations. We understand that nominations for ACECs for burrowing owls are being submitted to the BLM, and we strongly encourage their designation. Ferruginous hawks in the Uinta Basin seem to have been profoundly affected by oil and gas

drilling and their numbers have drastically declined as artificial nest sites have been erected to compensate for the sacrifice of natural nests. For all of these species, the intact prairie dog ecosystem must be actively conserved to ensure their long-term persistence.

Colorado River cutthroat trout: Recent genetic work has called into question assumptions about the range of this species. We encourage the BLM to work with the greenback cutthroat trout recovery team to remain informed about the status of the Colorado River cutthroat trout as well. As the greenback team has noted, all of these populations of native trout are important regardless of their subspecies assignment, but at this time the genetic research is pointing toward far fewer Colorado River cutthroat trout populations in existence than had previously been delineated. With mounting threats and fewer existing conservation populations, the BLM must do all it can to conserve all cutthroat trout in Colorado.

Roundtail chub: Unfortunately all of the occurrences of roundtail chub in the Field Office are listed as historical. This species probably warrants Endangered Species Act protection throughout its range, and has already been petitioned in the lower Colorado River. The BLM should take action in this RMP to restore the chub to its former habitat.

Roan Cliffs blazingstar and Piceance bladderpod: These two species have a relatively large number of occurrences but a very narrow distribution threatened by oil and gas drilling. If the BLM were able to actively conserve their habitat (which will be challenging given the amount of leasing that has already occurred) they might remain secure. Otherwise, Endangered Species Act protection may be necessary for these wildflowers as well.

Bald eagle: The eagle remains protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act, so the BLM must ensure that it meets these obligations. It appears that there are some active nest sites in the Field Office. The BLM should follow the Service's raptor guidelines to ensure these are not disturbed. These are available from the Utah Ecological Services Office - we believe adoption by the Washington Office is pending at this time.

High-quality occurrences of globally critically imperiled species and communities: The Field Office contains some of the very best occurrences of some of the rarest species and communities in existence. RMP revision must provide special management for these areas. These extremely rare elements include:

- A-ranked occurrence of G1S1 *Acer negundo*-*Populus angustifolia*/*Celtis reticulata* Forest
- A-ranked occurrence of G1S1 Canyonlands lomatium
- B-ranked occurrence of G1G2S1S2 Gypsum Valley cateye
- B-ranked occurrence of G1G2S1 *Forestiera pubescens* shrubland
- B-ranked occurrence of G1S1 *Juniperus osteosperma*/*Hesperostipa comata* Wooded Herbaceous Vegetation
- B-ranked occurrence of G1G2S1 Dolores River skeletonplant
- extant-ranked occurrence of G5T1T2S1S2 short-tailed black swallowtail
- A-ranked occurrence of G3T1S1 Great Basin silverspot butterfly

The BLM must consider the impacts of actions authorized by the RMP on each BLM Sensitive species, and must meet its land use planning obligations toward each of these.

**Recommendations:** BLM should protect special status species through ACEC designations. BLM must also identify a comprehensive management plan for special status species and plants that establishes monitoring and mitigation strategies. BLM should incorporate these recommended management prescriptions into the RMP in order to best protect special status species and their habitats.

## **6. TRAVEL MANAGEMENT**

### **a. Travel management decisions should be made in the RMP.**

BLM's internal guidance states that "each RMP will divide planning areas into OHV area designations that are open, limited or closed." IM No. 2004-005; *see also* 43 C.F.R. § 8342.2(b). This internal guidance was also incorporated into the updated version of BLM's *Land Use Planning Handbook*. H-1601, Appendix C, Section II.D (Comprehensive Trails and Travel Management). The *Land Use Planning Handbook* states that BLM should:

Complete a defined travel management network (system of areas, roads and/or trails) during the development of the land use plan, to the extent practical. If it is not practical to define or delineate the travel management network during the land use planning process, a preliminary network must be identified and a process established to select a final travel management network. (emphasis added)

Furthermore, Colorado IM No. CO-2007-020 directs Colorado BLM Field Offices to complete comprehensive travel management plans as part of the RMP process:

Nationally, BLM is moving towards a system of limiting use to designated roads, primitive roads and trails/areas and not encouraging extensive cross-country travel by motorized and mechanized vehicles. Current planning guidance (H-1601-1, *Land Use Planning Handbook* – Appendix C, Section D, attachment 2) requires identifying a defined travel management network system of areas, roads, primitive roads and trails, in all Land Use Plans. It is our expectation that each RMP Record of Decision will include a system of designated routes for those areas in the limited category.

The *Land Use Planning Handbook* (Appendix C, Section II.D) also sets out requirements for travel management at both the land use and implementation planning levels:

- At the land use plan level, BLM must identify areas for use based on program goals and objectives, primary users, reason for "allowing travel" into an area, setting character to be maintained (including Visual Resource Management and Recreation Opportunity Spectrum classifications), and primary means of travel appropriate to meet objectives and keep setting character; and
- At the implementation level, BLM must define a detailed travel management network, "establish a process" to identify roads, trails, etc. with criteria for selections, guidelines for management, monitoring and maintenance, and indicators for future plan maintenance.

**Recommendations:** We support BLM’s commitment to complete travel management concurrently with the RMP processes and to seize the opportunity presented by this RMP process to complete comprehensive travel management plan in conjunction with the RMP. The RMP should also identify priorities for implementation of the travel management plan, which may also be instructive in the event that the agency expects that additional travel planning will be needed. Special management areas, such as ACECs, special recreation management areas and citizen-proposed wilderness, will include travel designations within their boundaries. Priorities for sub-regions to receive comprehensive travel management planning, which can also be useful for guiding implementation, were identified in the Draft RMP issued by the Little Snake Field Office (available on-line at: <http://www.co.blm.gov/lspa/rmp/index.htm>) and we would encourage you to further prioritize areas in this manner as well. Please see Appendix F from the Little Snake Draft RMP, which sets out criteria for prioritizing areas to receive comprehensive travel management planning, including:

- Special management areas
- Areas identified as “limited to designated roads and trails”
- Areas that meet fragile soil criteria
- User and resource conflicts
- Excessive complaints
- Wildlife/wild horse population trends
- Evidence of trail/road proliferation
- Areas with high road densities
- Impacts on cultural resources
- Unacceptable erosion
- Degradation of water quality
- Impacts on visual resources
- Loss of trail integrity
- Habitat fragmentation and damage
- Impacts on sensitive plants
- Need to provide a variety of user experiences

If the agency does not complete travel management plans for all of the planning areas as part of the RMP, then the RMP must identify not only areas for use, but also reasons for permitting travel into an area and appropriate criteria for determining routes that will be made available for different uses, taking into account such factors as undeveloped recreation opportunities available and natural settings.

b. Landscape level planning.

Travel planning requires the agency to manage human travel across the landscape. The land use planning process, which addresses the broader landscape within a planning area, provides one of the best opportunities to make travel planning decisions in the appropriate context. While we understand that BLM does not have authority to close or relocate highways, major roads, or County roads, BLM must include these routes when analyzing the transportation network as they have a great impact on habitat fragmentation and reduction in core area size (discussed in length later in these comments and in Appendix 1). The placement and design of travel routes defines

which areas will remain or become roadless, and which areas will be disturbed and how. In other words, route decisions determine the fragmentation of the landscape, and, thus, how naturally or unnaturally a landscape will behave in terms of water flow and quality, wildlife migration, and species composition and function.

NEPA requires federal agencies to assess the direct, indirect and cumulative environmental impacts of proposed actions, taking a “hard look” at environmental consequences and performing an analysis commensurate with the scale of the action at issue. 42 U.S.C. § 4321 et seq; 40 C.F.R. § 1508.8; *see also* Metcalf v. Daley, 214 F.3d 1135, 1151 (9<sup>th</sup> Cir. 2000); Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348 (1989). Travel planning affects the entire landscape and can only be thoroughly and properly assessed by considering potential impacts and making decisions at a comparable level. In terms of how to evaluate the potential impacts of travel management decisions, NEPA’s definition of “cumulative impact” is instructive:

the impact on the environment which results from the incremental impact of the action **when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.** Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 C.F.R. § 1508.7. (emphasis added). BLM must account for the direct, indirect, and cumulative impacts of all roads in the Grand Junction Field Office RMP planning area when completing a comprehensive travel management plan.

**Recommendation:** BLM should address travel management on a landscape-wide basis by addressing the impacts of all roads in the planning area and accounting for the landscape-wide impacts of these roads.

c. Legal definition of “road.”

BLM must apply a legal definition of “road” within the planning process, develop appropriate criteria to accurately gauge what is or is not a road, ensure that illegal “ghost roads” are not legitimized, and in fact, close and reclaim such “ghost roads.” Some legal roads serve important travel needs and are appropriate for motorized use. However, routes that are not “roads” should not receive equal consideration. The agency has a definition of “road,” and this definition should be adopted and used consistently in order to create a regular expectation and approach on BLM lands.

The legal definition of road for the BLM public lands is derived from the definition of “roadless” in the legislative history of FLPMA:

The word “roadless” refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road. (H.R. Rep. No. 94-1163 at 17 (1976)).

In addition, the Code of Federal Regulations (43 C.F.R. § 19.2(e)) establishes the following definition:

An improved road that is suitable for public travel by means of four wheeled, motorized vehicles intended primarily for highway use.

IM 2006-173 (“Implementation of Roads and Trails Terminology Report”), which sets out and defines associated with transportation management, also includes a definition of a road as:

A linear route declared a road by the owner, managed for use by low-clearance vehicles having four or more wheels, and maintained for regular and continuous use.

Therefore, it is important that the BLM only identify as a “road” those routes that meet the definition in the inventory of “roads” in the Draft RMP; user-created routes should not be included, since they have not been improved or maintained by mechanical means to ensure regular use.

**Recommendations:** BLM should use a legal definition of “road” (as defined above) when designating routes and exclude “user created” routes from the inventory.

d. User-created routes.

The physical presence of tracks or routes created by the passage of vehicles is not sufficient to justify designating routes for motorized use in the Grand Junction RMP. Routes that were created by the passage of vehicles prior to designation of areas as “limited” to existing or designated routes for ORVs should be subject to a more stringent assessment. Because these routes were not developed by the agency for specific purposes or in compliance with the requirements of the BLM’s ORV regulations, they can be presumptively considered as not needed for travel within the Field Office. The BLM must consider whether a route has negative impacts to sensitive or protected resources, such as by the process recommended in this document, and should only designate those that do not impact these resources and have an identifiable purpose and public need..

**Recommendations:** User-created motorized tracks or routes should be presumptively excluded from designations in the RMP. These routes must be thoroughly analyzed to determine whether they comply with the requirements of the BLM’s ORV regulations (43 C.F.R. § 8342.1) and whether they serve an important purpose not served by other routes, such as reaching destinations within the Field Office, prior to being included in the travel network. Therefore, the BLM should use, as a baseline from which to begin an analysis and subsequent proposal, only the current baseline system of officially designated roads and motorized trails. Only from this perspective can the BLM and the public accurately determine the true scope of the changes being proposed.

e. Accommodating innovations in technology

Technological advances in recreational machines — mechanical and motorized — that were unanticipated in the existing land management plans resulted in considerable unplanned

recreation on the BLM lands over the past 20 years. In order to prevent this history from repeating itself, it is important that the RMP specifically address the issue. Technology has led to increased demands for longer and more “rugged” areas to drive. If a new and unanalyzed form of machine-based recreation occurs that is significantly different from those analyzed in the plan, then a new NEPA analysis is required. Accordingly, BLM should provide for an immediate closure of the Field Office to the new form of recreation until it can be publicly studied, analyzed, and designated pursuant to NEPA.

Multi-passenger class all terrain vehicles (ATVs) that are wider than 50 inches also need to be addressed. These are not trail vehicles, should be prohibited from trail use, and restricted to full-size vehicle roads or primitive roads. Per BLM’s guidance in IM No. 2006-173, “[t]rails are not generally managed for use by four-wheel drive or high-clearance vehicles.”

**Recommendations:** The Grand Junction RMP should explicitly state that if a new and unanalyzed form of machine-based recreation occurs, then the BLM will enact an immediate closure of the Field Office to the new form of recreation until it can be analyzed and designations developed with public input pursuant to NEPA. Machines should also be limited to appropriate types of routes.

f. Mapping of routes.

As part of comprehensive travel management planning, we anticipate that BLM will produce route maps to illustrate a base travel network, to generate various route designation proposals, and for purposes of receiving public comments. In these contexts, it is vital that the agency clearly mark on all maps or proposed maps areas with existing restrictions on motorized use, such as: wilderness areas, WSAs, current primitive non-motorized designations, Wild and Scenic Rivers, and ACECs. Depicting existing restrictions will ensure that public comments are informed by the knowledge that additional routes will not be permitted in certain areas. Further, maps should indicate resources that could be affected by motorized use, such as wilderness characteristics and wildlife habitat. In addition, BLM should display route designations on adjacent public lands, in order to provide better context for potential decisions. Public comments will then be informed by the potential resource conflicts and the best opportunities for designating areas for non-motorized recreation, and environmental review will also benefit from displaying the full context in which route designations are being made.

**Recommendations:** BLM should identify both existing restrictions on motorized access and other areas that can be damaged by motorized use on all maps used in travel planning.

g. Habitat fragmentation.

As mentioned in the beginning of this section of our comments, BLM must address travel management on a landscape level to ensure that BLM meets its responsibility as stewards of the public land and mitigates against habitat fragmentation. We have included The Wilderness Society’s most recent Science and Policy Brief, “Habitat Fragmentation from Roads: Travel Planning Methods to Safeguard BLM Lands” (Appendix 1). Also included in Appendix 1 are four scientific reports prepared by TWS and discussed in the habitat fragmentation report. These include *Fragmenting Our Lands: The Ecological Footprint from Oil and Gas Development*, *Protecting Northern Arizona’s National Monuments: The Challenge of Transportation*

*Management, Wildlife at a Crossroads: Energy Development in Western Wyoming, and Ecological Effects of a Transportation Network on Wildlife.* In addition to summarizing the four reports included, “Habitat Fragmentation from Roads: Travel Planning Methods to Safeguard BLM Lands” provides a summary of available scholarly and government reports and studies on the impact of habitat fragmentation on wildlife, provides methods for calculating habitat fragmentation, and provides recommendations on how to integrate fragmentation analysis into travel management.

We also recommend you look at the travel planning criteria set out in the Record of Decision for the Dillon (MT) RMP (relevant sections **attached** and also available on-line at: <http://www.mt.blm.gov/dfo/rod/contents.htm>), as an example of criteria that incorporate key aspects of BLM’s ORV regulations as well as ecological metrics. While this field office did not complete a comprehensive travel management plan as part of its RMP revision, it included road density targets and included an appendix outlining the principles it will use when completing a comprehensive travel management plan during implementation.

**Recommendation:** BLM should use the information provided in Appendix 1 to measure habitat fragmentation, conduct a thorough fragmentation analysis, and inform decisions regarding road closure and other limitations on use in the Grand Junction RMP.

h. Principles of travel management.

When completing a comprehensive travel management plan, it is vital to complete it in a systematic and transparent manner.

**Key principles of travel planning**

- (1) Travel management is part of land use planning and should address both recreation and transportation needs from a landscape perspective.
- (2) Prior to conducting an inventory or designation of routes, BLM should assess the present resources, requirements for protection, and which uses for recreation and development are compatible with these resources, requirements and other users.
- (3) BLM should use a legal definition of “road” when designating routes.
- (4) BLM’s consideration of ORV use should take into account its potential damage to resources and other uses, including exclusion of other users.
- (5) Where BLM presents a baseline travel system, it must present route maps in a responsible manner that does not legitimize illegally-created routes.
- (6) BLM should include a detailed closure and restoration schedule in the plan.
- (7) BLM should include and implement a monitoring plan.
- (8) BLM should include and implement education and outreach in the plan.

Furthermore, Colorado IM No. CO-2007-020 instructs Field Offices to select roads and trails based on comprehensive travel management goals:

Design a travel system with RMP and transportation network goals in mind rather than just choosing from inherited roads, primitive roads and trails. Instead of a decision-making process to only decide which individual routes should be closed or left open, design a travel system with a desired goal of sustainable routes that meet patrons' needs (i.e. loops) and varying levels of difficulty. Also, consider a broader range of management options that include reroutes, reconstruction or new construction, as well as closures.

The RMP revision provides an opportunity for BLM to evaluate its travel system goals and whether the current system of roads and trails is furthering or hampering these goals. BLM should create a travel network that best serves the many resources which the agency is tasked with managing.

The Wilderness Society and the Colorado Mountain Club have developed a template for conducting travel management planning, including a detailed discussion of these key principles of travel planning, which we have **attached** and recommend that the BLM incorporate into the RMPs as the process for further planning.

**Recommendations:** BLM should follow the eight travel planning principles detailed above to ensure that only routes which truly serve a valid purpose for the public remain open. BLM should also create comprehensive travel management goals and designate routes accordingly.

## **7. RECREATION AND SPECIAL RECREATION MANAGEMENT AREAS (SRMAS)**

Using the language of Benefits Based Management, which emphasizes user "experience" rather than recreation "activity" or "resources," we would like identify ourselves as representing a range of Quiet Use organizations whose thousands of members are passionate about preserving traditional forms of recreation such as hiking, backpacking, non-motorized hunting, angling, horseback riding, landscape and wildlife photography, and birding and other wildlife viewing pursuits.

On BLM lands we and our members want to experience naturalness, quiet natural soundscapes, undeveloped scenery, an undisturbed natural landscape, the timelessness and geological sweep of the BLM's remote and rugged landscapes, a low level of facilities and management presence, and opportunities for uncrowded and solitary experiences. We want to be able to recreate in primitive, undeveloped, natural appearing settings. The experiences we are looking for are closeness to nature, a contemplative relationship with the natural world, savoring the total sensory experience of a natural landscape, escape from crowds, quieting our minds by escaping urban traffic and crowding, and a sense of humanity's place in the larger universe, as well as improved outdoor knowledge, independence, self-reliance and a sense of adventure. We and our members are whole-hearted participants in these types of experiences with a keen interest in preserving for future generations these time-honored traditional experiences of the outdoors.

a. Preservation, creation and enhancement of opportunities for quiet recreation.

The recreation resource on public lands is becoming increasingly valuable: more people want to recreate on a finite amount of public land. As mentioned above, the vast majority of recreationists and other public land visitors desire solitude, clean air, clean water, vast undeveloped landscapes, and a place to witness healthy natural systems thriving with native plants and wildlife. The Grand Junction RMP should accommodate those desires as they are consistent with BLM Colorado's strategy for recreation management and the national BLM publication "Priorities & Goals for Recreation & Visitor Services."

**FLPMA and Applicable Off-Road Vehicle (ORV) Regulations:** As discussed above, FLPMA requires the BLM to manage the multiple uses and resources of the public lands, which include fish and wildlife, watersheds, scenic values, recreation opportunities, scientific and historic values, and other natural values, such as wilderness characteristics. FLPMA also provides for the agency to do so by excluding or limiting certain uses of these lands. BLM's regulations relating to management of off-road vehicles, similarly acknowledge the need to address the manner in which motorized recreation can prohibit other experiences, requiring that both areas and routes for off-road vehicles be located to "minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, *taking into account noise and other factors.*" 43 C.F.R. § 8342.1 (emphasis added). Providing a "quiet" recreation experience, as also discussed in reference to opportunities for primitive, unconfined recreation and for solitude provided by lands with wilderness characteristics, also requires thoughtful management to provide for a quiet soundscape. Much research exists on the importance of natural sound to public land visitors. Noise impacts on the recreational experience have become a looming issue in today's noisy urban world. A recent study by the National Park Service showed that whereas upwards of 98% of national park visitors come to experience scenic landscapes, fully 97% are also there to experience the natural soundscape. We recommend the GJFO conduct a soundscape analysis to guide formulation of intended user experiences, for example by analyzing how canyon topography might block or propagate vehicular sound and how that might affect quiet users, neighboring homeowners and wildlife habitat effectiveness. We ask that the alternatives specifically compare impacts of, and the potential for the increase of ORV noise on natural sound and other resources, consistent with the BLM's regulations.

The BLM's ORV regulations also provide for protection of other values that are critical parts of not only a healthy ecosystem on BLM lands, but also of enjoying quiet recreation activities, such as hunting, photography and bird-watching, requiring that management minimize "damage to soil, watershed, vegetation, air, or other resources of the public lands" and harassment of wildlife or disruption of habitat; and to prevent impairment of wilderness suitability or adverse effects on natural areas. 43 C.F.R. § 8342.1. Landscape level planning, including through use of the travel planning template attached to these comments and assessing road density, as described in more detail above, is another important tool for ensuring that quiet recreation opportunities are preserved.

**Colorado BLM Instruction Memorandum CO-2007-020:** This guidance acknowledges the importance of comprehensive recreation and ORV management to “facilitate attainment of management objectives and maintain prescribed setting character—which is also essential to achieving Benefits-Based Management objectives.” The IM also restates BLM’s commitment to generally limiting motorized use to designated roads and trails, such that “open areas will be limited to a size that can be realistically managed and geographically identifiable” and “expansive open areas allowing cross-country travel, without a corresponding and identified user need/demand, will not be designated in RMP revisions.”

Further, the guidance provides for designating routes to dispersed camping and day use sites and limiting use of motorized vehicles to these routes, only providing for use off of these routes where “needed” and “appropriate,” and then subject to specified distances and time periods; in this context the IM refers to being “consistent with the policies of the United States Forest Service OHV Rule.” Since the Forest Service has been updating its guidance, we wanted to clarify the manner in which dispersed camping should be handled to be both consistent with this policy and with BLM’s other goals for management of the public lands in the Grand Junction Field Office. The Forest Service Travel Management Rule (36 C.F.R. § 212.51(b)) provides, in relevant part:

The responsible official may include in the designation the limited use of motor vehicles within a specified distance of certain designated routes *solely for the purposes* of dispersed camping or big game retrieval. Such designations represent *site-specific decisions* associated with specific roads and trails or road or trail segments, rather than a blanket exception to the rule. Designations under 36 CFR 212.51(b) will be applied sparingly to avoid undermining the purposes of the rule and to promote consistency in implementation. (emphasis added).

The Forest Service Travel Management Directives, proposed March 9, 2007, and finalized December 8, 2008, reinforces that the allowance for dispersed camping is a designation of motorized use, as opposed to a blanket exception to designation of motorized use. FSM 7715.64 provides, in relevant part:

2. [This authority] should be used sparingly to avoid undermining the purposes of the travel management rule and to promote consistency in its implementation.
- ...
4. Responsible officials should consider providing designating [sic] routes to dispersed camping sites as an alternative to authorizing off-route use...

Accordingly, as stated in the rule and directives, any dispersed camping allowance must be treated as a specific designation and consistent with other travel planning regulation and guidance, which is also consistent with the provisions of Colorado IM CO-2007-020. The Southern Rockies Conservation Alliance recommendations on application of the Forest Service approach are similarly applicable here:

BLM should allow visitors to disperse camp generally, but restrict motor vehicle travel *for the purposes of dispersed camping* according to a combination of the following options, as dictated by resource, safety, and private property concerns:

- a) Forest visitors may park a motor vehicle within one vehicle length from the edge of the road surface when it is safe to do so and without causing damage to the resources of the public lands (campers walk to access a backcountry camp of their choosing), and/or
- b) Motor vehicles may access signed campsites via designated camp spur routes that are signed and demarcated on a travel management map.

In certain places or certain times, the BLM may need to restrict dispersed camping altogether. These provisions should be incorporated in the Grand Junction RMP.

**Land Health Standards:** Healthy lands are a critical part of recreation experience, and it is equally important that recreation not degrade the quality of the public lands, as acknowledged by FLPMA and the regulations discussed above. We recommend that the recreation portion of the RMP take as one of its primary objectives to meet or exceed the 1996 Colorado BLM Land Health Standards (approved in February 1997 by the Secretary of Interior ) pertaining to “Upland Soils and Riparian Systems,” “Healthy Plant and Animal Communities,” “Special Status and Threatened and Endangered Species,” and “Water Quality.” The Colorado BLM’s Recreation Management Guidelines, issued in December of 2000 by the Resource Advisory Councils of Colorado in partnership with the agency, commit to management of recreation “while at the same time minimizing and preventing adverse impacts to land health, ecosystems, and cultural or natural resources” and specifically incorporate and attach the Land Health Standards.

**Colorado BLM Recreation and Visitors’ Strategy:** The 2007 Colorado BLM Recreation and Visitors’ Strategy directs managers to consider impacts on “land health standards” ( p. 4) and the need to “uphold our [BLM’s] fundamental duty to meet or exceed land health standards” (p. 6). This strategy also provides an approach that will maintain the open spaces on the lands managed by the Grand Junction Field Office. Many portions of Grand Junction BLM lands, not just WSAs and proposed wilderness, fall into the more primitive category of BLM lands that are at particular risk for losing their naturalness. The 2007 Colorado BLM Recreation Strategy emphasizes the importance of maintaining the “distinctive character” and “wide open spaces” of Colorado BLM lands (p.3). The Strategy emphasizes the “need to maintain the distinctively undeveloped and open space character of its [BLM’s] recreation settings” (p. 7). The BLM should commit to actively managing these lands to protect and enhance the primitive, backcountry experience.

**Guidelines for Managing Access between BLM and Private Lands in the Royal Gorge Field Office:** These guidelines, incorporated in the Royal Gorge RMP and endorsed by the Front Range Resource Advisory Council (and **attached** to these comments), provide generally that: “Other than for foot and horse uses, entry to public lands from private lands must comply with the designated transportation system and be limited to the same means of travel that the general public uses from public access points.” These guidelines were developed to address a substantial increase in user-created motorized roads and trails leading from private lands onto the adjoining

public lands that did not comply with federal management. These guidelines should be incorporated into the Grand Junction RMP.

**Standards for Issuance of Special Recreation Permits:** BLM should adopt unambiguous, protective criteria for issuance of special recreation permits (SRPs) in order to effectively manage the increase in commercial and competitive group activities that can have a significant impact on the lands in the Grand Junction Field Office. The BLM Handbook on Recreation Permit Administration (H-2930-1) clearly states that field offices can and should develop guidelines for issuing SRPs. The Handbook states: “Field Offices are encouraged to develop thresholds through land use planning for when permits are required for organized groups and events for specific types of recreation activities, land areas, or resource settings” H-2930-1 at 13. On the issue of Special Area Permits, the Handbook states: “Applications for Special Area Permits issued to individuals are processed according to the area-specific land use and/or business plan, or guidelines approved by the State Director.” H-2930-1 at 17. The Grand Junction Field Office therefore must provide clear guidelines for processing Special Area Permits, because in this situation the Handbook directs that permit issuance will tier to the RMP.<sup>13</sup>

The Price Field Office Draft RMP (Appendix 14, **attached** to these comments) provides an excellent example for evaluating SRP applications and issuing such permits. It classifies SRPs into four distinct classes, ranging from least intensive to most intensive, based on specific factors such as type of equipment, size of area used, number of participants, etc. These factors are defined and then compared in a simple permit classification matrix consisting of Classes I through IV (with I being for smaller and less impacting events and IV being for larger, more impacting events). Each Class also has an example of the type of event that may fit into the category. After the Class is determined, the BLM can then look to see how permit types fit into Recreation Opportunity Spectrum Classifications and/or Special Recreation Management Area (SRMA) or Extensive Recreation Management Area. Various SRMAs can be broken into classes and it is easy to see what types of uses and events should be permitted for each area. Because the standards set out in the Price Draft RMP are very specific (for example, surface disturbance of 5-40 acres ranks as “medium intensity”), BLM can easily determine whether to issue an SRP and where, and can better estimate cumulative impacts from such permits. The Grand Junction RMP should use the model provided by the Price Draft RMP for classification of SRPs to define which uses may be appropriate or inappropriate in specific areas. BLM has not only the discretion to establish SRP guidelines, but also the obligation to do so in order to protect the resources that the RMP is intended to protect and sustain.

**Criteria for Addition of New Motorized Trails:** In assessing whether additional motorized trails are appropriate, we recommend use of the criteria set out in the BLM’ Arkansas River Travel Management Plan Environmental Assessment, Appendix 6 (pp. 225-227), **attached** to these comments (and available on-line at: [http://www.blm.gov/pgdata/etc/medialib/blm/co/field\\_offices/royal\\_gorge\\_field/travel\\_manage](http://www.blm.gov/pgdata/etc/medialib/blm/co/field_offices/royal_gorge_field/travel_manage)

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<sup>13</sup> Analysis of the impacts of permits on a cumulative basis is also best accomplished in the RMP, since it will provide for a more comprehensive, informed analysis that can look at both cumulative and site-specific environmental consequences, as required by NEPA.

[ment/arkansas\\_river\\_travel.Par.98563.File.dat/ARTMP\\_Final\\_EA\\_12062007.pdf](http://ment/arkansas_river_travel.Par.98563.File.dat/ARTMP_Final_EA_12062007.pdf) ), which state (with emphasis added):

To provide for continued motorized uses, while also protecting the area's resources, the ID team offers the following recommendations for guiding future management and development of the Texas Creek OHV Area:

1. Continue and strengthen long-term partnerships with motorized user groups (COHVCO, CMTRA, RMTA, etc.) for the purposes of maintaining existing trail networks and for constructing new trails.
2. **A significant factor in approving new trails depends on the ability to maintain existing trails to agreed standards.** With the participation of cooperating partners, develop accepted standards and guidelines for constructing and maintaining new and existing trails.
3. With the participation of cooperating partners, establish a system and procedures for monitoring trail conditions and performing necessary maintenance work.
4. Approve construction of new or additional trails only when the following conditions have been met:
  - a. **The proposal would further the goals [desired future conditions] (DFCs) identified on page 2.**
  - b. The proposal is sponsored under a partnership agreement that includes a plan for securing the necessary funds and/or volunteer commitments to construct and maintain the trail to accepted standards.
  - c. The specific location(s) of the proposed trail(s) has been flagged on the ground and mapped using GPS.
  - d. **The decision to approve the trail(s) has been authorized under a site specific EA that analyzes the environmental effects of the proposal.**

***Recommendations:*** In managing recreation on the lands of the Grand Junction Field Office, the RMP should ensure that quiet recreation opportunities are given sufficient attention and that management of motorized recreation, in general, is also designed to protect the experiences of other public land visitors. Comprehensive travel management planning, including landscape level planning and road density analysis, as well as compliance with land health standards, will also ensure healthy ecosystems that can support positive recreation experiences. Further, coordinated BLM and Forest Service guidance on management of motorized vehicles and dispersed camping, managing access between public and private lands, issuance of special recreation permits, and strict criteria for addition of motorized trails will also help the agency to maintain the distinctive open space character of Grand Junction BLM lands

b. Special Recreation Management Areas

i. General.

In the Grand Junction RMP we encourage the BLM to use special recreation management areas to reverse the ongoing downslide of recreational settings into more developed categories and preserve or restore settings to the primitive and backcountry category – providing a prescriptive

approach to creating, enhancing and protecting quiet recreation experiences on our public lands, using the tools and guidance set out above.

The Land Use Planning Handbook (in Appendix C and as further defined in the Glossary) provides for BLM to establish special recreation management areas (SRMAs) in the lands governed by the Grand Junction RMP. Depending upon the anticipated use of each SRMA, BLM should adopt different management strategies. The Handbook identifies the following general types of recreational use:

- Undeveloped – These areas are managed to support dispersed recreation, maintaining their highly-valued, distinctive, undeveloped recreation setting character. Within the bounds of legal requirements and sound management practices, resource and visitor management actions exercise minimal regulatory constraint and exclude major investments in facilities and visitor assistance to preserve the visitor’s freedom to choose where to go and what to do.
- Community – These areas adjoin communities and are managed to provide structured recreation opportunities in response to recreation-tourism demand generated by community and/or tourism growth and development. The areas are managed to maintain natural resource and/or community setting character, with appropriate restrictions on marketing, administration and other management actions.
- Destination – These areas have distinctive, highly visible, or otherwise outstanding resource attractions that are managed to provide structured recreation opportunities in response to demonstrated national or regional recreation-tourism demand. The areas are managed to maintain natural resource and/or community setting character, with appropriate restrictions on marketing, administration and other management actions.

In the context of the BLM’s Benefits Based Management (BBM) framework, it is critical that the range of SRMAs, including recreation management zones (RMZ), and their management prescriptions are written to enhance the other values that ultimately contribute to the benefits and experiences of the area and provide significant opportunities for primitive recreation experiences. SRMAs should include those with an “Undeveloped” market and, even though they will not be managed by extensive facilities, require active management to protect their lands from other uses and activities that will destroy the undeveloped recreation setting and experience.

Some of the supporting materials for analysis of recreation settings set out standards for primitive physical settings that appear to unreasonably limit the lands that could be considered to provide a remote, primitive recreation “experience.” Accordingly, the BLM should not use those standards as a “bright-line test” to disqualify areas which are or could in the future provide a primitive recreation experience. Rather, the standards should be used as a goal which proper management could help the areas achieve and focus on the experience that can be achieved.

IM CO-2007-020 directs BLM managers to: “Ensure that travel management decisions...maintain prescribed setting character...” (p. 2). The IM specifies tools to be used for maintaining settings, stating on page 2 that: “For areas with Limited and Open categories, managers may impose several different kinds of limitations including vehicle numbers, types, use times or seasons, permitted use.....” (emphasis added). The notion of limiting numbers of recreation users needs to be incorporated into the adaptive management measures adopted for all

recreation planning in the Grand Junction Field Office, particularly for portions of Grand Junction Field Office where growth in recreation use should not be the goal. Prescriptions to ensure primitive recreation opportunities are provided should also include soundscapes, special recreation permits, and road density.

In this manner and as part of achieving the goals of a BBM system, areas which have primitive character should be managed for that experience and desired future condition, even if they do not currently meet all of the criteria that the BLM has set for primitive physical settings or designation. By adopting such a prescriptive, or aspirational management approach, as opposed to a more descriptive or reactive approach of just basing the management of the zones on perceived evidence of human presence or an expectation of more people wanting to use the area, the BLM can ensure that some level of existing disturbance does not disqualify areas which do provide a primitive experience from a decision to manage them to protect and enhance such qualities and provide this important experience.

***Recommendations:*** BLM should adopt a range of SRMAs and management prescriptions which provide adequate opportunities for non-motorized or quiet recreational experiences and are written to enhance the other values that ultimately contribute to the benefits and experiences of the area. BLM should use an aspirational approach which allows the agency to ensure that some level of existing disturbance does not disqualify areas which do provide a primitive experience from a decision to manage them to protect and enhance such qualities and provide this important experience. The SRMA proposals and wilderness inventory submitted under separate cover identify key areas for protecting primitive recreation experiences.

ii. Preserving the “Backcountry” recreation setting

One of the factors the BLM uses to determine setting prescriptions is “distance from an improved road,” or the “remoteness” criterion found in the Settings Classification Matrix. Greater distances from roads will put an area into a less developed setting on the Settings Classification Matrix. The developed or undeveloped character of a physical setting in turn helps determine the level of development a setting will have in the social and managerial settings of the matrix.

We have noticed a tendency for “distance from a road” to be justification for classifying an area more developed on paper than the actual conditions on the ground warrant. This in turn makes it easier for social and administrative settings to be similarly skewed toward a more developed management goal.

Like many Colorado BLM lands, the Grand Junction Resource Area contains historic “constructed” roads that get little or no use and therefore do not interfere with the essential backcountry character and feel of the land. Visitors may experience a remote, backcountry feeling, even in the presence of seldom used roads. Spatially analyzing “distance from a road” and using the criterion for determining a landscape’s remoteness does not take into account other subjective qualities of the landscape and does not give the BLM an accurate frame of reference from which to make a decision on the undeveloped and backcountry nature of an area.

Another reason that existing settings may be upgraded to a more developed setting within the matrix may be due to the long lifespan of an RMP. Managers anticipate increased recreation demand over the life of an RMP, and assign Front Country or Rural settings to areas that are currently Backcountry in character. Upgrading existing settings in this manner becomes a self-fulfilling prophecy. Setting high numbers of encounters and group sizes up front opens up an area to increased use, leading in turn to further setting upgrades down the line.

**Recommendations:** Despite the likelihood of increased demand and the physical proximity of a road, we feel it is important to make every effort to preserve the undeveloped and backcountry experience wherever possible. We recommend that settings, visitor encounters and group sizes be adjusted from less crowded to more crowded settings incrementally over time through adaptive management, rather than up front, before recreation demand has actually materialized.

Adaptive management strategies need to be based on comprehensive and statistically rigorous monitoring based on defined levels of acceptable change, as was done in the Jack Morrow Hills plan in Wyoming. This approach can be used to limit use of an area for primitive recreation and to limit facilities unless or until certain criteria are met – such as increased demand and a determination that more visitors can be accommodated without undermining targeted recreation values. Again, the Jack Morrow Hills plan in Wyoming is a good example of how the BLM could implement adaptive management with specific monitoring of key resources, targets for management, and triggers for action.

We recommend that the RMP include specifics on the monitoring and metrics that will be used to evaluate successful meeting of targets for SRMAs and other recreation areas.

We understand that experiential outcomes and setting retention are the end goals of the Benefits Based Management “Chain of Causality” (experiential outcomes result from settings and activities which result from market demand, user groups, and activities). For this reason the RMP needs to be specific about the metrics to be used for evaluating the attainment of the experiential “Outcomes.”

Examples of Adaptive Management responses could be: reduced marketing, smaller trailheads and parking, fewer improved trails, more challenging trails, and other ways of limiting vehicle numbers as referenced previously in the 2007 Colorado BLM IM, p. 2.

In applying adaptive management, we caution against resorting too quickly to the common solution of dispersing use to other areas. This merely spreads resource impacts more broadly across the land and invites more growth, more off-trail use, more trail maintenance expense and more management and enforcement challenges over a greater expanse of land. It is not the BLM’s job to indefinitely absorb an unlimited expansion in recreation demand. Setting limits on recreational use to protect BLM resources and experience will lead to other providers stepping forward to absorb increased demand.

iii. Managing promotion and marketing.

A key aspect of implementing SRMAs is marketing (H-1601-1 – Land Use Planning Handbook, Appendix C, pp. 15-17, Recreation and Visitor Services, C, 4). Experience shows that designating new trail systems and other recreation opportunities can lead to unanticipated increases in use, potentially straining BLM resources and shifting less crowded settings into more crowded ones.

The 2007 State Recreation and Visitor Services Strategy points to the inconsistency between the “recreation tourism demand” generated by a “vigorous Colorado Tourism Office promotion budget” and the BLM’s “fundamental duty to meet or exceed land health standards” (p.6). The Recreation Strategy goes on to state: “tourism industry promotion... sends increasing numbers of outdoor adventurers to BLM public lands,” challenging the BLM’s ability to “maintain the distinctively undeveloped and open-space character of its recreation settings” (p. 7).

In response to this problem, both Appendix C of the LUP Handbook and the State Recreation Strategy direct the BLM to manage marketing so as to maintain targeted recreation settings. For example, the SRMA definitions section in Appendix C includes “appropriate restrictions on marketing” as one of several implementation actions to be done on SRMAs.

Objective 2 in the Recreation Strategy similarly calls upon businesses and local governments to “agree” to the BLM’s “approved recreation setting prescriptions and management objectives” and to “market public lands responsibly” (p. 9). For example, the Glenwood Springs Field Office, has obtained an agreement from local government to limit marketing efforts to ensure its Community SRMAs do not evolve into Destination SRMAs.

The Recreation Strategy further directs BLM field offices to “engage the business community and local governments in .....managing....use of public lands that meet or exceed land health standards” (p. 9).

**Recommendations:** In accordance with this direction, we recommend that the Grand Junction RMP be specific about the marketing strategies it will use for each new SRMA and recreation area. The marketing strategies should be designed to hold use levels down to those that will maintain the “distinctive, open-space character” of BLM settings referred to above. The BLM should obtain specific agreements/MOUs laying out the nature and extent of the publicity that will be done on each recreation area.

c. Areas needing special attention to recreation management.

In addition to designating new SRMAs and protecting lands with wilderness characteristics in accordance with our separate proposals, certain areas in the Grand Junction Field Office merit special attention for management of recreation. At this time, we would like to highlight the following areas:

**West Desert Area:** The revised Grand Junction RMP should provide adequate protections for parts of the west desert area – north of Fruita and west to the state line – where remaining white-tailed prairie dog towns support a host of birds and other species. Motorized use, and in some cases non-motorized use, should be restricted in order to minimize disturbance to these fragile

communities. This is needed to ensure that habitat remains for burrowing owls (whose populations appear to have declined significantly in recent years), ferruginous hawks, pronghorn, kit fox and rare plant assemblages. The Colorado Natural Area for rare plants north of Mack should be protected from ORV use.

**Grand Mesa Slopes:** Motorized recreation in the Grand Mesa Slopes area east of Grand Junction should be limited, with restrictions on motorized recreation within the boundaries of the Grand Junction municipal watershed. This includes portions of Whitewater Creek and Kannah Creek. The BLM should closely consult with the City of Grand Junction to ensure that recreation activities of any kind to not compromise the city's water supply.

**North Desert:** In the BLM area north of the GJFO headquarters to the base of the Bookcliffs, motorized recreation should be sustainably managed so that it does not impact areas where white-tailed prairie dog habitat – and associated burrowing owl habitat – exists. In this RMP revision, the BLM should also address the impacts of extensive motorized recreation use on water quality due to selenium loading resulting from soil disturbance.

**Bangs Canyon:** Management of this area needs to be reassessed in light of the failure of the current plan to provide adequate protection for the area's wilderness characteristics and enhance opportunities to experience its remoteness and naturalness.

**North Fruita Desert:** Active management of the implementation of the travel plan is required to ensure that use is kept on designated trails and does not degrade the experience of other users or the natural resources of the area.

#### d. Development of capacity model

In the face of a growing resident and visiting population in the intermountain west, the BLM should develop a resource and recreation capacity model that establishes indicators and standards that are linked to land function and user experience. The National Park Service has experience with capacity modeling, making use of models such as Levels of Acceptable Change (LAC), the Visitor Experience and Resource Protection process (VERP), Visitor Impact Management (VIM), and Visitor Activity Management Program (VAMP), in a number of park units.

Capacities are needed to make, at a minimum, the following decisions:

- Allocations between commercial and dispersed backcountry use;
- Allocations between commercial enterprises, individuals, and organized events (allowed via the Special Use Permitting process);
- When to adopt permitting systems; and
- When to consider implementing public transportation.

A capacity model will not provide a black-and-white guide telling managers exactly how to adapt management to protect resources, but will provide a framework for management that will trigger management attention and adaptations. And, importantly, it will allow managers to educate the public about impacts of recreation, methods to mitigate impacts, and adaptive management based on triggers built into the models.

**Recommendations:** The BLM should develop a pilot capacity model for the Grand Junction Field Office and we would be interested in working with you on this. For more information, we also recommend contacting National Parks that have engaged in the process, which includes Arches National Park and Kenai Fjords among others.

For additional information, we would recommend reviewing:

Theobald, Dave. 2001. Identifying Resource Areas Sensitive to Recreation Use, A Presentation to the Colorado Outdoor Recreation Resource Project. Attached.

Thompson, J. L., D. W. Lime, B. Gartner, and W. M. Sames (compilers). 1995. Proceedings of the Fourth International Outdoor Recreation and Tourism Symposium and the 1995 National Recreation Resource Planning Conference, May 14-17, 1995, St. Paul, MN. University of Minnesota, College of Natural Resources and Minnesota Extension Service, St. Paul, MN, 642 pp.

Manning, R. E., D. W. Lime, M. Hof, and W. A. Freimund. 1995. The Visitor Experience and Resource Protection (VERP) process: The application of carrying capacity to Arches National Park. The George Wright FORUM 12(3): 41-55.

Anderson, D. H., D. W. Lime, and T. L. Wang. 1998. Maintaining the quality of park resources and visitor experiences: A handbook for managers. TC-777 1998. St. Paul, MN: University of Minnesota, Department of Forest Resources, Cooperative Park Studies Unit and Minnesota Extension Service, Tourism Center. 134 pp.

## **8. WILD AND SCENIC RIVERS**

Rivers deemed eligible for inclusion in the Wild and Scenic Rivers System must be managed to protect their outstandingly remarkable values until the suitability determination is made, and suitable rivers must be managed so as to protect their qualities until Congress has an opportunity to designate the river as part of the System. Given that water is relatively sparse and that riparian areas are scarce in the study area, each stream is of tremendous value, and the BLM should fully protect these priceless resources via the Wild and Scenic Rivers Act and the Grand Junction RMP.

### **Consideration of Eligibility**

Eligibility determinations are required during the resource management planning process under Section 5(d)1 of the Wild and Scenic Rivers Act. To be eligible for inclusion in the NWSRS, a river or segment thereof must be “free-flowing” and it or its related land area must possess at least one outstandingly remarkable value (ORV). 16 U.S.C. § 1273 (b); see also Center for Biological Diversity (CBD) v. Veneman, 349 F. 3d 1108, 1109 (9<sup>th</sup> Cir. 2005) (defining eligibility).<sup>14</sup> These ORVs are the “scenic, recreational,<sup>14</sup> geologic, fish and wildlife, historic, cultural, or other similar values” listed in section 1 of the WSRA. 16 U.S.C. § 1271.

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<sup>14</sup> A “river” means a “flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.” 16 U.S.C. § 1286 (a). Free-flowing, as applied to any river or section of a river, means “existing or flowing in a natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence,

Intermittent streams should also be considered for eligibility. As long as the flows in a stream are adequate to contribute to the outstandingly remarkable values, non-perennial streams should be considered for eligibility in resource management plans. (See Interagency Wild and Scenic River Council's A Compendium of Questions and Answers Relating to Wild & Scenic Rivers, A Living Draft at 17.)

### **Protect all eligible segments**

Whether found suitable or not, all segments found eligible must, under the provisions of the Wild and Scenic Rivers Act and accompanying regulations, be managed in order to preserve the characteristics that make those segments eligible.

### **Protective measures must be specific to wild and scenic eligibility and suitability**

Protective management prescriptions and requirements—specific to segments' values that prompt findings of wild and scenic eligibility and suitability—must be included in the final RMP and so must be carefully analyzed in preparation of the draft plan. Consideration of other management prescriptions or designations that could, by coincidence, help protect features that contribute to the segments' eligibility and suitability are helpful (wilderness study areas, areas of critical environmental concern, visual resource management classes, mineral withdrawals, etc.). Those coincidental protections and designations must, in the final RMP and in its implementation, specifically supplement wild and scenic river purposes, or similar measures must be provided in the final plan exclusively for wild and scenic river purposes.

Similarly, the BLM's contemplation of "riparian areas considered for special management" is both laudable and important. Such special management designations should supplement, and not replace, complete consideration of wild and scenic river values or complete protection under the terms of the Wild and Scenic Rivers Act and its provisions for study and for interim protection.

### **Apply all available protections specific to wild and scenic**

Whatever the ultimate collection of stream segments found to be suitable, all those segments should be subject to all available protective measures.

Such measures include (but are not limited to) managing all suitable segments:

- closed to off-highway vehicle use;
- withdrawn from mineral entry;
- as VRM Class I or Class II areas;
- as right-of-way exclusion areas;
- subject to remedial actions to ensure sensitive species habitat is maintained or enhanced;
- subject to extensive and reliable no-surface-occupancy stipulations for all activities;
- with related ACECs closed to off-highway vehicle use;
- with related ACECs closed to oil and gas exploration and development;
- among other appropriate measures.

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however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the [NWSRS] shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the [NWSRS]." 16 U.S.C. § 1286 (b) (emphasis in original).

## Reconsider and expand eligibility determinations

The BLM's draft wild and scenic eligibility determination appropriately finds certain segments eligible and thus advanced for further study and specifically for suitability analysis. In particular, the draft inclusion of select segments of the Colorado River, Gunnison River, Dolores River, Little Dominguez Creek, Big Dominguez Creek, East Creek, West Creek, Ute Creek, Blue Creek, North Fork West Creek, and North Fork Mesa Creek is welcome and appropriate.

The BLM should, however, reconsider additional segments for eligibility and thus for additional study, including:

- West Salt Creek and Demaree Canyon Creek, especially as associated with wilderness characteristics and with other natural and ecological values of the Demaree Wilderness Study Area;
- Fish Creek, especially as associated with wilderness characteristics and with other natural and ecological values of The Palisade Wilderness Study Area;
- Cottonwood Canyon Creek, Spring Creek, Coal Canyon Creek, and Jerry Creek, especially associated with wilderness characteristics and with other natural and ecological values of the Little Bookcliffs Wilderness Study Area;
- Bangs Canyon Creek, especially as associated with the wilderness characteristics and with other natural and ecological values of the Bangs Canyon citizens' wilderness proposal; and
- Granite Creek, especially as associated with the wilderness characteristics and with other natural and ecological values of the Granite Creek citizens' wilderness proposal.

In a broader context, the criteria for eligibility evaluation are clear. The Department of the Interior's Bureau of Land Management Manual chapter "8351 –Wild and Scenic Rivers – Policy and Program Direction for Identification, Evaluation, and Management (BLM Manual). Section .31A of that manual states:

Basis for Determination. To be eligible, a river segment must be "free-flowing" and must possess at least one river-related value considered to be "outstandingly remarkable." These factors are summarized in Illustration 1. *No other factors are considered in determining the eligibility of a river segment. All other factors are considered in determining suitability.*" (emphasis added)

Since more detailed management decisions about stream segments would be made later in the suitability determination phase, as part of the current RMP revision or in subsequent amendments, it makes sense to list as eligible *all* segments that have any variation of the primary eligibility criteria, including even one outstandingly remarkable value. When in doubt, include them as eligible.

Further, the BLM must disclose the scope of the outstandingly remarkable values (ORV) inventory process used in the draft eligibility report, and the BLM must extend that analysis to include all stream-related ORVs and study corridors wide enough to incorporate those ORVs. We note that some past wild and scenic have relied too heavily and arbitrarily on a one-quarter-mile "buffer" around identified segments in its initial identification of ORVs. BLM guidance is clear that such a "buffer" is not the appropriate measure for an ORV's association with a river. For example, ORVs can "owe their location or existence to the presence of the river" (IM 04-

196), a standard on which it would be arbitrary for BLM to place a numerical value. We are concerned that if BLM uses this arbitrary buffer, the agency will overlook significant ORVs that are tied to a segment.

Geologic and scenic ORVs, as examples, could easily extend or originate from distances greater than one-quarter-mile from a segment. In an arid western slope climate, important cultural and historic values that are directly tied to segments used as water sources and migration routes for historic human populations are likely to exist a variety of distances from a segment yet “owe their location or existence to the presence of the river.” *Id.* With vast amount of BLM land having never undergone formal cultural survey, it is important that BLM employ generous and inclusive boundaries in their inventory.

### **Suitability determinations**

When conducting suitability determinations the BLM should consider only the criteria contained within the Wild and Scenic Rivers Act (16 U.S.C. § 1271-1287). Congress explicitly limits federal agency discretion in the suitability determinations by prescribing eight specific criteria for consideration. These items include: (1) a description of the area (with maps); (2) the eligibility characteristics (free-flowing and ORVs); (3) status of landownership; (4) reasonably foreseeable future uses that would be enhanced, foreclosed, or curtailed if included; (5) the Federal agency administering the area; (6) the extent to which costs are shared by the state; (7) the costs to the U.S.; and (8) the degree to which the state may participate in protection and administration of the river. See 16 U.S.C. § 1275 (a); § 1276 (c).

In fact, the plain language of section 4 (a) of the WSRA, the legislative history, the Interagency Final Revised Guidelines for Eligibility, Classification and Management of River Areas, 47 Fed. Reg. 39454 (September 7, 1982), and express policy goals of the WSRA suggest that some threat of future development does not, and should not, render a river “unsuitable.” See 16 U.S.C. § 1275 (a)(i) (only those “developments which, *if undertaken*, would render the rivers unsuitable.”); see also H.R. Rep. No. 90-1623 at 3808 (seeking to protect rivers that “are the most threatened by developments which, *if they materialize*, would render the rivers unsuitable”). Only Congress retains the prerogative to determine political decisions under the Wild and Scenic Rivers Act. By basing a suitability decision on political questions and factors, the Federal agencies are: (1) considering factors beyond those that Congress authorized them to consider when conducting suitability studies; and (2) are, in effect, bypassing and shortcutting the designation process envisioned by Congress.

**Recommendation:** As required by law, the Grand Junction RMP must carefully analyze *all* potentially eligible stream segments, adopt requirements to ensure eligible and suitable rivers are protected pending decisions on their designation, and ensure any designated rivers and river corridors are managed to preserve their values. Any Suitability determinations must only include the eight criteria required by law.

## **9. RIPARIAN MANAGEMENT AREAS**

We are intrigued by the concept of riparian management areas, as initially discussed at recent public meetings on the RMP planning process and as initially depicted on the map, “BLM Riparian Areas Considered for Special Management”. We appreciate the BLM’s attention to streams and their stream-related riparian corridors as essential and fragile components of the landscape and general watersheds of the study area and encourage the agency to improve management of these areas outside of segments deemed eligible for Wild and Scenic River status under existing authorities.

Riparian areas are essential to the productivity of ecosystems. Although they represent only a small percentage of the area of a landscape, they provide a disproportional percentage of the productivity of ecosystems including contributions to biodiversity, fish habitat, migration corridors and connectivity between diverse sections of the landscape.

Correspondingly, we look forward to working with the BLM in identifying specific stream and riparian values that warrant special protective management, in devising and refining specific protective management measures, and in promoting supporting their successful implementation.

Additional riparian areas already identified by the BLM should be added to those considered for special management. Such additions should include all streams flowing through or associated with values in wilderness study areas, citizens’ proposed wilderness, existing or candidate areas of critical environmental concern, and other areas potential suitable for special land protection designations.

We note that, whatever such riparian management measures are considered and implemented, the BLM must diligently and thoroughly fulfill its study and protection obligations as defined in the Wild and Scenic Rivers Act and in associated regulations and agency guidance. Other study processes or management measures must be used to supplement, and not replace, those wild and scenic protective actions.

**Recommendation:**

The BLM should protect riparian areas on a watershed scale creating protective linkages between segments of land and rivers with special designations to maximize connectivity and maintain or improve ecosystem function.

**10. OIL AND GAS DEVELOPMENT**

a. **Scope of Oil and Gas Leasing**

BLM must consider the following when deciding which areas to allow fluid mineral leasing and development: 1) the BLM has a multiple use mandate and must manage its lands for a variety of uses, not primarily for oil and gas development. 43 U.S.C. § 1712(c)(1); 2) BLM must consider a *reasonable* range of alternatives in regards to areas open to oil and gas leasing. 40 C.F.R. § 1502.14; and 3) any decision which leaves the vast majority of the Field Offices open to oil and gas development will preclude the effectiveness or long term viability of any conservation measures as there is always the potential that those conservation measures could be jeopardized by oil and gas development, regardless of how low the potential for development is currently.

1. The BLM has a multiple use mandate and must manage its lands for a variety of uses, not primarily for oil and gas development.

FLPMA obligates the BLM to abide by the principles of multiple use and sustained yield, especially during the land use planning process. Specifically, multiple-use is defined as:

...the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output. 43 U.S.C. § 1702(c).

The definition of multiple use makes it clear that the BLM is obligated to manage the land for a number of resources other than oil and gas leasing, and states specifically that the BLM should manage some land for less than all of the resources and should not always be concerned with managing the land in order to receive the greatest economic return. The definition of multiple-use makes it clear that simply because a particular resource exists does not mean that the BLM needs to be able to extract that resource for a profit. It is well within the realm of BLM's multiple-use mandate to not have a significant portion of the Grand Junction Field Office open to oil and gas leasing. Further, BLM should consider alternatives which choose not to re-lease areas formerly leased when those leases expire or are terminated. Areas where there are specific resource concerns or that are identified as important habitat should be considered for other uses besides oil and gas leasing. These areas may include, but are not limited to: Areas of Critical Environmental Concern, Special Recreation Management Areas, Potential Conservation Areas, critical habitat, areas with cultural resources, proposed wilderness and lands with wilderness characteristics.

BLM's answer to charges that it is not adequately protecting resources from oil and gas impacts is often to provide leasing with No Surface Occupancy (NSO) stipulations. While NSO stipulations are a marked improvement over offering leases with standard lease terms, it is important to note that NSO stipulations do not necessarily resolve the wildlife and other resource concerns associated with oil and gas leasing. There are adverse consequences to wildlife associated with oil and gas development, regardless of whether or not there is an NSO stipulation on the lease. An example of this, noted by Clait Braun (2006) in *A Blueprint for Sage-grouse Conservation and Recovery*, a copy of which is attached to these comments, is that "oil and gas development influenced the rate of nest initiation of sage-grouse in excess of 3 km of construction activities. Clearly, the amount and (likely) frequency of noise associated with development has major negative effects on greater sage-grouse."

Further, BLM often offers companies exceptions, modifications or waivers from the application of NSO stipulations. Having NSO stipulations on a majority of the lands within the Field Offices is better than allowing surface occupancy in terms of wildlife and resource concerns, but

that does not supplant the BLM's obligation to manage for a variety of resources, of which oil and gas is only one.

2. NEPA requires the BLM to consider and evaluate a reasonable range of alternatives for oil and gas development.

The range of alternatives is “the heart of the environmental impact statement.” 40 C.F.R. § 1502.14. NEPA requires BLM to “rigorously explore and objectively evaluate” a range of alternatives to proposed federal actions. *See* 40 C.F.R. §§ 1502.14(a) and 1508.25(c).

“An agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action.” Northwest Env'tl Defense Center v. Bonneville Power Admin., 117 F.3d 1520, 1538 (9<sup>th</sup> Cir. 1997). An agency violates NEPA by failing to “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed action. City of Tenakee Springs v. Clough, 915 F.2d 1308, 1310 (9<sup>th</sup> Cir. 1990) (quoting 40 C.F.R. § 1502.14). This evaluation extends to considering more environmentally protective alternatives and mitigation measures. *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122-1123 (9<sup>th</sup> Cir. 2002) (and cases cited therein). For this Draft RMP, the consideration of more environmentally protective alternatives is consistent with the requirement of FLPMA to “minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved.” 43 U.S.C. §1732(d)(2)(a).

NEPA requires that an actual “range” of alternatives is considered, such that the Act will “preclude agencies from defining the objectives of their actions in terms so unreasonably narrow that they can be accomplished by only one alternative (i.e. the applicant's proposed project).” Colorado Environmental Coalition v. Dombeck, 185 F.3d 1162, 1174 (10<sup>th</sup> Cir. 1999), citing Simmons v. United States Corps of Engineers, 120 F.3d 664, 669 (7<sup>th</sup> Cir. 1997). This requirement prevents the EIS from becoming “a foreordained formality.” City of New York v. Department of Transp., 715 F.2d 732, 743 (2<sup>nd</sup> Cir. 1983). *See also, Davis v. Mineta*, 302 F.3d 1104 (10<sup>th</sup> Cir. 2002).

In order to comply with NEPA, BLM must consider a broad spectrum of alternatives in regards to which lands will be available for oil and gas leasing. A Draft RMP which leaves all the lands within the planning area open to oil and gas leasing or only allows for very slight differences between the alternatives in this regard fails to meet the “reasonable range of alternatives” directive. BLM has an obligation to rigorously explore and evaluate a range of alternatives.

3. A decision which leaves the vast majority of the Field Office open to oil and gas development necessarily negates the effectiveness or long term viability of any conservation measures as there is always the potential that those conservation measures could be jeopardized by oil and gas development, regardless of how low the potential for development is.

BLM has an opportunity in this RMP to make great strides in conservation and habitat restoration. However, the long term viability of these strategies, programs and goals could be severely impacted by oil and gas development. Oil and gas development is known to cause a variety of problems that are detrimental to wildlife, and by leaving nearly the entire planning

area open to leasing, the BLM may undermine any conservation efforts or goals it identifies in the RMP. The West is pockmarked with many places which were left open to oil and gas leasing based on the belief that these areas had low potential for development. As a result, when an economically recoverable reservoir of oil and/or gas was discovered, the area had insufficient protection measures in place.

This lack of forethought has created many problems for wildlife and other resources. The impacts from oil and gas development are now well known, as such, areas of high ecological or cultural resource density should simply not be available for leasing. For example, Clait Braun, a leading researcher on sage grouse in the west, has stressed the impacts that oil and gas development can have on sage grouse populations:

Road building, well pad construction, and noise disturbance associated with oil and gas development can fragment effective sage grouse habitat and compromise the quality of seasonal use areas. In addition, by creating more linear areas and smaller habitat patches, energy development can boost predation rates on sage grouse. So, for a variety of reasons, major oil and gas development reduces the area useable by sage grouse, which often leads to greater isolation of populations and a reduced ability to handle droughts, severe winters, or other natural disturbances<sup>15</sup>

BLM simply cannot expect to have ecologically effective sage grouse habitat, or any other type of important wildlife habitat, and unlimited oil and gas development in the same area. A situation arrives in which the goals, programs, and designations BLM uses to protect a valuable resource is only effective until such time that the right technology and/or price of oil and gas reaches a point that a previously non-economically extractable supply becomes economically extractable, or until a previously unknown supply not thought to exist is discovered. History tells us that BLM must consider the impacts of oil and gas development across the planning area and close areas which have important wildlife, cultural, or wilderness values.

***Recommendations:*** In order for the BLM to comply with FLPMA and NEPA the agency should, at a minimum, consider and “rigorously explore” the possibility and design alternatives which do not leave a significant portion of the Field Office open to oil and gas leasing. See 43 U.S.C. § 1712(c)(1) and 40 C.F.R. §§ 1502.14(a) and 1508.25(c). We recommend, at a minimum, that the areas identified as having “low” oil and gas potential be removed from consideration for leasing. Further, BLM must consider a range of alternatives that will address what to do with currently leased lands which are not developed and are either terminated or expire. Not allowing oil and gas leasing in these areas would help the BLM move towards meeting its goal of managing the federal lands within its jurisdiction for a variety of uses, not primarily for oil and gas leasing. For lands which area identified as appropriate for leasing, a variety of non-waivable stipulations, conditions of approvals (COAs), and Best Management Practices (BMPs – discussed later) should be developed to protect the many resources present in the planning area.

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<sup>15</sup> This paragraph is adapted from detailed scoping comments on Upper Green sage grouse population trends and management issues prepared by Dr. Braun and submitted to the Pinedale BLM in October, 2002. Contact Linda Baker, Upper Green River Valley Coordinator (307-360-7198) to receive a copy of his 14 page comment letter.

b. Additional Impacts of Oil and Gas Leasing.

NEPA requires that federal agencies take a “hard look” at the direct and indirect environmental impacts of oil and gas development before any action that will lead to such development takes place. *See, e.g., Pennaco Energy, Inc. v. U.S. Department of the Interior*, 377 F.3d 1147 (10<sup>th</sup> Cir. 2004); *Conner v. Burford*, 848 F.2d 1441 (9<sup>th</sup> Cir. 1988); *Sierra Club v. Peterson*, 717 F.2d 1409 (D.C. Cir. 1983). NEPA’s regulations further provide that the “effects” on the environment that agencies must consider include those that are “direct, indirect, or cumulative.” 40 C.F.R. § 1508.8. The NEPA regulations define “cumulative impact” as:

the impact on the environment which results from the **incremental impact of the action when added to other past, present, and reasonably foreseeable future actions** regardless of what agency (Federal or non-Federal) or person undertakes such other actions. **Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.**

40 C.F.R. § 1508.7. (emphasis added). The analysis of impacts included in the FEIS must adequately address the cumulative impacts of oil and gas operations within the region or the impacts inherent in the proposed action.

Federal caselaw amplifies that agencies must disclose the direct and indirect environmental effects a federal action will have on non-federal lands. *See City of Davis v. Coleman*, 521 F.2d 631, 677-81 (9th Cir. 1975) (where federal approval of highway project likely to have impacts on development of surrounding area, agency must analyze development impacts in EIS); *Coalition for Canyon Preservation v. Bowers*, 632 F. 2d 774, 783 (9th Cir. 1980) (same); *Sierra Club v. Marsh*, 769 F.2d 868, 877-89 (1st Cir. 1985) (striking down EA where agency failed to account for private development impacts likely to result from its approval of causeway and port facility); *Mullin v. Skinner*, 756 F.Supp 904, 920-22, (E.D. N.C. 1990) (striking down EA where agency failed to account for private development impacts likely to result from agency approval of bridge). Such impacts must be disclosed, particularly where facilitating private development may be the project's "reason for being." *See Citizens Comm. Against Interstate Route 675 v. Lewis*, 542 F.Supp. 496, 562 (S.D. Ohio 1982).

BLM must consider impacts of region-wide development and also consider impacts on private lands. Existing development from neighboring planning areas as well as development within the Field Office affects the Grand Junction planning area. Similarly, although the BLM may not have formal control over adjacent private lands, these lands can also be affected by oil and gas development. The impacts of oil and gas development do not recognize management boundaries.

**Recommendation:** In considering the need and ways to manage these lands to protect the many resources of these public lands, the agency must consider the cumulative impacts from regional oil and gas development and the cumulative impacts to adjacent lands from oil and gas development. This analysis should inform the manner in which BLM allocates lands as available

or unavailable for oil and gas development and the conditions under which development may be permitted.

c. Best Management Practices

Significant portions of the Grand Junction RMP planning area will likely remain open to oil and gas development. As discussed with respect to the many other values of the lands within the planning area, many of these lands should not be open to leasing and others require non-waivable lease stipulations to protect their resources, such as wildlife habitat, water quality and wilderness characteristics. It is vital that the RMP require the use of best management practices (BMPs) for oil and gas exploration and development, which can drastically reduce the impacts of oil and gas development on the other natural resources of the public lands.

BLM's guidance requires consideration of BMPs for oil and gas development. BLM's Instruction Memorandum 2004-194 directs consideration of BMPs and both the IM and the recently updated Gold Book provide examples of BMPs that can be applied to both new and existing leases, in order to limit the damage from oil and gas development. It is critical that the RMPs consider and make BMPs mandatory in order to comply with BLM's guidance and obligations to protect the many natural values of these lands.

**Recommendations:** The Grand Junction RMP must identify BMPs and make them mandatory, especially in sensitive areas. BMPs should include:

- Phased or strategic development - in terms of timing (developing one area, then restoring before moving to another), location (such as staying out of big game corridors), limiting amount of equipment in use at any given time, limiting amount of surface disturbance on a lease at any given time and requiring successful restoration before permitting additional disturbance;
- directional drilling;
- clustered drilling;
- closed loop drilling;
- interim reclamation;
- restoration standards;
- unitization; and
- increased bonding.

**11. RENEWABLE ENERGY**

The Grand Junction RMP planning area includes lands with potential for renewable energy development. We support moving away from fossil fuels and reducing demand for energy. To achieve this, we need to obtain more energy from renewable sources, more conservation of energy and more efficient technology. Nonetheless, it is important that the RMP address specific concerns regarding conservation values and incorporate appropriate protection associated with siting of renewable energy development.

Certain areas should be presumptively avoided in siting renewable energy development, as well as transmission corridors. These places have been formally designated or otherwise identified because of their special natural values, which could be damaged or destroyed by the surface

disturbance, alteration of viewsheds and features, impact to air and water quality, erosion, and increased human access likely to occur in connection with the construction and operation of energy development. Accordingly, energy development should not be sited in the following areas in the Grand Junction planning area:

1. Wilderness Areas;
2. Wilderness Study Areas (WSAs);
3. National Monuments;
4. National Conservation Areas;
5. National Historic and National Scenic Trails;
6. Other lands within BLM's National Landscape Conservation System (NLCS), such as Outstanding Natural Areas and Cooperative Management Areas, or areas that have been proposed for designation by pending legislation;
7. ACECs;
8. Threatened, endangered and sensitive species habitat;
9. Other critical cores and linkages for wildlife habitat, such as that identified by state wildlife agencies through State Comprehensive Wildlife Conservation Strategies;
10. Citizen Proposed Wilderness Areas, as set out in Congresswoman DeGette's Colorado Wilderness Act, currently pending in Congress; and
11. Other lands with wilderness characteristics as identified by the land management agencies or the public, including in the pending Colorado Wilderness Act.

A similar approach was implemented in the June 2005 PEIS for Wind Energy Development on BLM Lands, which included a broad analysis of environmental consequences and mandatory mitigation measures, as well as a directed approach for completing project-specific analysis. The Wind Energy PEIS excluded all Wilderness, NLCS lands and ACECs from consideration for development of wind energy (including transmission lines) and explicitly outlined Best Management Practices (BMPs), which were mandatory for all projects, then required development of additional site-specific mitigation measures in connection with the analysis and approval of individual projects.

**Recommendations:** If a net benefits analysis is conducted, which includes consideration of the highest renewable resource potential, least impact on conservation values and ecosystem services, efficient use – close to load served, expanded transmission support to renewables, decreased emissions of greenhouse gases, avoidance of protected and sensitive areas, and use of best management practices, and the analysis indicates that beneficial opportunities to develop renewable energy exist in the Grand Junction Field Office, we support the development of such resources. Renewable energy development should be prohibited in areas with identified conservation values. The RMP should also identify mandatory BMPs and the circumstances in which such BMPs are required to apply to the design, construction and operation of renewable energy development facilities in specified circumstances in a manner analogous to BLM's PEIS for Wind Energy Development.

## **12. ENERGY CORRIDORS**

As part of the process to designate West-wide Energy Corridors mandated by the Energy Policy Act of 2005, the Department of Energy's Draft Programmatic Environmental Impact Statement

(PEIS) proposes the designation of two energy corridors for pipelines and powerlines through the Grand Junction Field Office. Especially of note is corridor 132-136, which is proposed to have a width of 21,120 to 26,400 feet. This is more than six times the default width of the proposed West-wide energy corridors, and the additional width is due to the existing management plan for the Grand Junction Resource Area. This corridor would have significant and lasting impacts to the area.

Public comments on the Draft PEIS, attendees at public meetings held by the Department of Energy and cooperating agencies, and Congressmen, utility companies, renewable energy experts, and representatives from state and local governments participating in an oversight hearing held by the House Natural Resources Committee, Subcommittee on National Parks, Forests, and Public Lands and Subcommittee on Energy and Minerals all voiced major concerns about the corridor designation process. These concerns included:

- lack of adequate consultation with Native American tribes, state and local governments and communities, and local citizens;
- lack of access for renewable energy transmission;
- failure to analyze the opportunity to reduce transmission need and the need to designate new corridors with increased efficiency, distributed generation, and new technologies;
- lack of analysis of cumulative impacts;
- failure to analyze impacts to non-federal lands;
- and inadequate protection for special places, protected lands, wildlife habitat, cultural resources, and recreation opportunities.

During the RMP revision, BLM should evaluate potential impacts from the proposed corridor and, if it is found to be compatible with adequate resource management, then BLM should specify a smaller width for the corridor.

***Recommendation:*** To ensure a sustainable and reliable transmission infrastructure while limiting negative impacts, BLM should designate corridor locations and widths that are based on BLM's local expertise, appropriately account for concerns of local communities, and protect field office resources.

### **13. CLIMATE CHANGE**

Interior Secretary Order No. 3226 specifically requires that the BLM “*consider and analyze* potential climate change impacts” when undertaking long-range planning exercises, including specifically “*management plans and activities developed for public lands.*”<sup>16</sup> (emphasis added). We support the BLM's recognition of the importance of analyzing the effects of its actions on climate change. Global climate change is now acknowledged to be a major consideration for effects of major federal actions.

Courts have recognized the critical importance of climate change to a variety of federal decision-making processes. Most recently, in Center for Biological Diversity v. National Highway Traffic Safety Admin. (CBD), 538 F.3d 1172 (9<sup>th</sup> Cir. 2008), the Ninth Circuit held that a federal

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<sup>16</sup> By its terms the “Order is effective immediately and will remain in effect until its provisions are converted to the Departmental Manual or until it is amended, superseded or revoked, whichever comes first.” *Id.* § 4.

agency's environmental analysis of the impact of new fuel standards violated NEPA by failing to consider cumulative effects on climate change. *Id.* at 1216. The court found the analysis insufficient because it did "not evaluate the 'incremental impact' that [stated] emissions will have on climate change or on the environment more generally in light of other past, present and reasonably foreseeable actions" such as other fuel standards. *Id.* The court also faulted the agency for its superficial approach, which neglected to "discuss the *actual* environmental effects resulting from those emissions or place those emissions in context of other [fuel standard] rulemakings." *Id.* Importantly, the court held that the agency's decision setting fuel standards was the "proximate cause" of greenhouse gas emissions, and triggered an obligation under NEPA to assess climate impacts, even if the agency's decision resulted in an "individually minor" impact. *Id.* at 1217-18. *See also* Mid States Coalition for Progress v. Surface Transp. Bd., 345 F.3d 520 (8th Cir. 2003) (holding that increased coal consumption and global warming emissions were reasonably foreseeable effects of railroad expansion to transport coal).

The Supreme Court has concluded that "[t]he harms associated with climate change are serious and well recognized." Massachusetts v. E.P.A., 127 S.Ct. 1438, 1455 (2007). Further, the Supreme Court has held that while agency action may not completely reverse global warming, it does not relieve the agencies of the responsibility to take action to reduce it. *Id.* at 1458. In fact, an order issued by the Secretary of the Interior requires that:

Each bureau and office of the Department will consider and analyze potential climate change impacts when undertaking long-range planning exercises, when setting priorities for scientific research and investigations, when developing multi-year management plans, and/or when making major decisions regarding the potential utilization of resources under the Department's purview.

U.S. Dept. of the Int., Sec. Order No. 3226 (Jan. 19, 2001), Section 3.

Climate change is especially important in the context of oil and gas planning and development. Recently-published federal studies show that soil disturbing activities in particular, including those relating to energy exploration and development, put plant and animal species, and key wildlife habitats like riparian areas, at heightened risk to the effects of climate change. *See* U.S. Climate Change Science Program, *The Effects of Climate Change of Agriculture, Land Resources, Water Resources, and Biodiversity* (2008). Greenhouse gas emissions from oil and gas exploration, production and processing include carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) and to a lesser extent nitrous oxide (N<sub>2</sub>O),<sup>17</sup> from combustion sources (such as drilling rigs and natural gas compressor engines), as well as vented methane from sources such as tanks, pneumatic devices, well completions and workovers, and gas dehydration and sweetening.<sup>18</sup>

At the same time, in light of climate change, undeveloped public lands are also increasingly important as a source of habitat for species impacted by climate change, and as a source of forest

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<sup>17</sup> According to the EPA, methane is 21 times more potent than CO<sub>2</sub> as a greenhouse gas, while nitrous oxide is 310 times more potent. *See*, [www.epa.gov/methane/scientific.html](http://www.epa.gov/methane/scientific.html) and <http://www.epa.gov/nitrousoxide/scientific.html> (last visited December 15, 2008).

<sup>18</sup> American Petroleum Institute, *Compendium of Greenhouse Gas Emissions Methodologies for the Oil and Gas Industry* (February 2004), at 2-5, available at [http://www.api.org/ehs/climate/new/upload/2004\\_COMPENDIUM.pdf](http://www.api.org/ehs/climate/new/upload/2004_COMPENDIUM.pdf) (last visited December 15, 2008).

and other vegetation which acts as a "carbon sink" and is thus important for mitigation of climate change. Undeveloped lands are also a source of increasingly scarce clean water and other ecosystem services. Increased development, including infrastructure, motorized routes, and rights-of-way will reduce these benefits.

In order to evaluate the broad range of impacts encompassed by a NEPA analysis, it is critical that BLM adequately and accurately describe the environment that will be affected by the proposed action under consideration – the “affected environment.” 40 C.F.R. § 1502.15. As steward of these public lands, the BLM must analyze the likely effects of climate change on existing conditions, such as the prevalence of exotic plant species and increased susceptibility to larger hotter wildfires. Without this basic, foundational information about the existing impacts of climate change on the land, and future expected impacts, it is impossible to make informed decisions about the level, location and kind of activities the land and its ecosystems can support in the future, such as oil and gas development on five million acres of these lands.

**Recommendations:** BLM must analyze the likely impacts of climate change on the resources within the Grand Junction Field Office and use this information to make decisions that best protect the resources in light of the most recent climate change science. Furthermore, BLM must analyze if and how its proposed planning activities will exacerbate climate change and take steps to mitigate these impacts.

#### 14. **SOCIOECONOMIC ANALYSIS**

The analysis of the socio-economic impacts of the proposed resource management plan must be thorough and accurate in order to responsibly manage the public lands. We have **attached** a document entitled “**Socio-Economic Framework for Public Land Management Planning: Indicators for the West's Economy,**” which details our expectations for the baseline analysis of the region's economy as well as the analysis of the potential impacts of proposed management alternatives on the area. We request that your analysis of alternatives in the Grand Junction RMP revision follow the approach set out in this document, as well as the more specific considerations detailed below.

##### 1. **General approach.**

In general, when looking at the economic implications of various management alternatives, BLM should do a full accounting of the costs and benefits. To facilitate informed investment decisions about publicly owned wildlands, economic analysis must take into consideration both market and nonmarket benefits and costs (Loomis 1993). To account for the full array of market and nonmarket wildland benefits, economists have derived the total economic valuation framework (TEV). TEV is the appropriate measure to use generally when evaluating the benefits of conserving wilderness character and wildlands. Figure 1 summarizes the seven categories of wildland benefits (Morton, 1999).

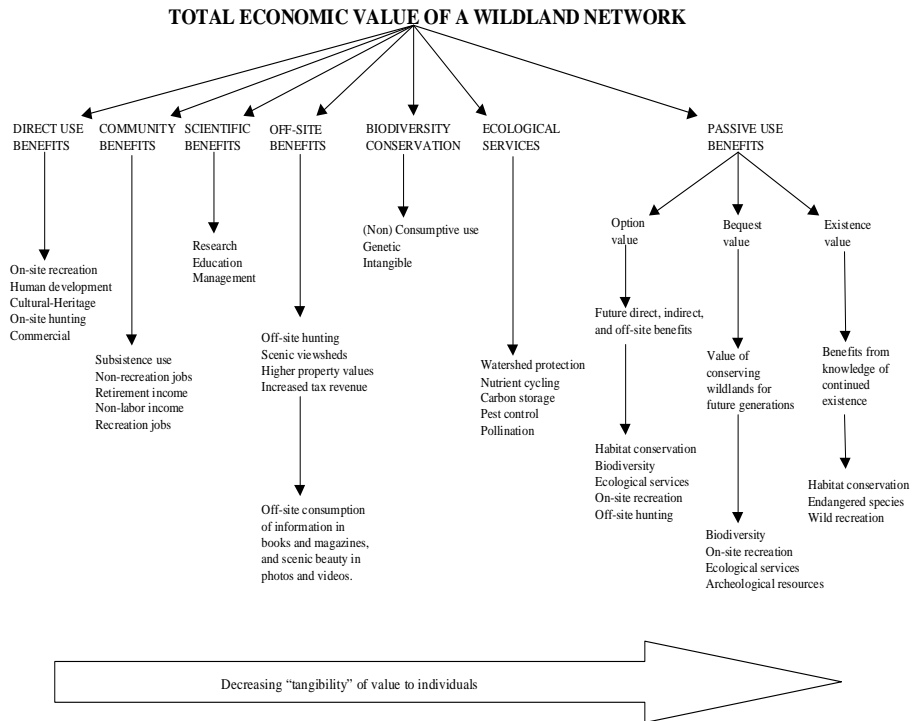


Figure 1. Total Economic Valuation Framework for Wildlands

**Source: Morton, 1999**

With respect to estimating the economic impacts (e.g. income to communities) of various management alternatives, the BLM should avoid the IMPLAN model or other input-output models that are grounded in economic base theory, as research has shown that IMPLAN is a static model that is inadequate for planning purposes. IMPLAN models also do not consider the impacts of many important variables that affect regional growth in the rural west, such as regional amenities like high quality hunting, fishing and recreational opportunities, open space, scenic beauty, clean air and clean water, a sense of community, and our overall high quality of life. Many of these amenities are associated with attracting new migrants as well as retaining long-time residents -- both of whom earn retirement and investment income. Unfortunately, most IMPLAN models completely fail to consider the important economic role of retirement and investment in the economy of a community – which can be a fatal flaw of the model. We recommend that the BLM rely on trend analysis of income and employment for the counties impacted using the EPS system developed by the Sonoran Institute ([www.sonoran.org](http://www.sonoran.org)).

**2. The BLM should use Total Personal Income as a basis for examining economic impacts.**

For the analysis of regional economic trends, the BLM should include an analysis of all sources of income, rather than relying solely on employment – which will dramatically overstate the importance of oil and gas industries to the local economy. A full accounting of income is necessary to an understanding of the important role that transfer payments and other sources of non-labor income, such as interest payments, rents, and profits have upon the regional economy. For example, in Colorado, investment and retirement income accounts for 23% of total personal income in the

state. Therefore, an economic impact analysis that excludes non-labor income is totally inadequate and misleading.

3. To provide socio-economic context, the BLM should examine historic trends in county income and employment.

A growing number of economists are recognizing that protecting the quality of the natural environment is key in attracting new residents and business and therefore the environment is the engine propelling the regional economy. A letter to President Bush from 100 economists concludes “The West's natural environment is, arguably, its greatest, long-run economic strength...A community’s ability to retain and attract workers and firms now drives its prosperity. But if a community’s natural environment is degraded, it has greater difficulty retaining and attracting workers and firms” (Whitelaw, et al. 2003). Given these findings, we request that the BLM economists fully consider the indirect role of wildlands in attracting non-recreational businesses and retirees when considering the economic impacts of the proposed natural gas development project. Research supports these assertions that the amenities of the rural West attract business and economic opportunities (Lorah, 2001; Rasker, 1994; Johnson and Rasker, 1993 and 1995; Rudzitis and Johansen, 1989 and 1991)

Completing an analysis of income and employment trends and the role of wildlands in those trends is especially relevant given the growing body of literature suggesting that the future diversification of rural economies is dependent on the ecological and amenity services provided by public lands in the west (Power 1996, Johnson and Rasker 1995, Haynes and Horne 1997). These services (e.g. watershed protection, wildlife habitat, and scenic vistas) improve the quality of life, which in turn attracts new businesses and capital to rural communities.

Public lands in the West represent natural assets that provide communities with a comparative advantage over other rural areas in diversifying their economies. Public land management can contribute to decreasing dependence/specialization and diversifying local economies by de-emphasizing resource extraction and emphasizing management and budgets on providing high-quality recreation and conserving habitat for the region’s biological resources.

As noted by (Freudenburg and Gramling 1994):

it needs to be recognized as a serious empirical possibility that the future economic hope for resource-dependent communities of...the United States could have less to do with the consumption of natural resources than with their preservation.

Resource managers, economic planners and community leaders must become aware of this potential. **We therefore request our concerns be fully addressed and our recommendations followed as part of the NEPA process analyzing different uses of these public lands.**

4. The socio-economic impacts of oil and gas development must be fully accounted for in alternatives which include such development in these RMP revisions.

Oil and gas development has important impacts (both positive and negative) on the surrounding communities. These impacts need to be assessed accurately and completely by the BLM when

considering any potential oil and gas development for the Grand Junction Field Office. We have **attached** a document entitled "**The Economic and Social Impacts of Oil and Gas Development**" which describes in detail some of these impacts, along with our recommendations for assessing the impacts and mitigating them.

Oil and gas development is subject to cycles of boom and bust. The instability and lack of local control associated with oil and gas drilling are a source of both economic and social distress for communities that are too dependent on the oil and gas industry. Currently many communities in the Rocky Mountain region are experiencing the "boom." While there are benefits to the local communities, there are also costs. Landowners are incurring considerable expense to protect their homes, ranches and other property from the impacts of drilling on or near their lands. Local governments are experiencing increased costs to provide services to the expanding populations, along with increased costs due to increased traffic, crime, drug use, and demands on emergency services. Labor shifts also have costs to local communities. For example, workers may leave city or county jobs for oil and gas jobs, placing a strain on the government workforce at a time when agencies are stretched thin to handle the increased workload brought on by the boom (such a labor shift was documented in the Powder River Basin by Pederson Planning Consultants, 2001).

Along with socio-economic impacts, oil and gas, and especially coalbed methane, production poses serious additional environmental concerns which will have impacts on the local communities. Water produced during the initial stages of coalbed methane production increases the potential for damage to water quality (USGS, 1995), as well as the damage associated with surface disposal in an otherwise arid region. In Wyoming for example, where coalbed methane production has been ongoing for several years, these impacts have been well documented. Wells in Wyoming discharge between 20,000 to 40,000 gallons per day per well (Darin, 2000). The disposal of the produced water not only affects the economics of development, but also poses serious environmental concerns. The total amount of water discharged from CBM wells in Wyoming has skyrocketed in recent years, increasing from approximately 43.5 million gallons (134 acre feet) in 1990, to 18 billion gallons (56,000 acre feet) in 2005 (Wyoming Oil and Gas Conservation Commission, 2006).

The discharging of 56,000 acre feet of water in the arid West is wasteful in the short-term (generally an acre-foot of water will supply a family of four for one year), and has potentially devastating economic impacts for affected communities in the long-term. Dewatering of deep aquifers may upset the hydrologic balance, eliminating or reducing the availability of this water for future agricultural and domestic uses, and impacting the recharge of shallow aquifers and surface water. The process of releasing natural gas from coal formations (fracturing) has the potential to contaminate household water wells (USGS 2000). Colorado, and the Grand Junction Field Office can expect similar impacts if coalbed methane development is pursued.

**Recommendations:** BLM should analyze the socioeconomic impacts of the proposed management alternatives in accordance with the approach set out in "Socio-Economic Framework for Public Land Management Planning: Indicators for the West's Economy," including the more specific considerations detailed above. BLM must also conduct a thorough assessment of the impacts of oil and gas and coalbed methane development on the social and economic wellbeing of the communities included in the Grand Junction Field Office. We

recommend that such analyses be based on the issues and methods outlined in “The Economic and Social Impacts of Oil and Gas Development.” We also request that the RMP requires that any proposed oil and gas development includes adequate measures to mitigate negative socioeconomic impacts and protect the local communities, property owners and the landscape from such harms.

Thank you for your consideration of our scoping comments. We look forward to seeing these issues addressed as the Grand Junction RMP revision process continues.

Sincerely,

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## ATTACHMENTS & REFERENCES

### Attachments

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