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May 23, 2003

Renee Dana
BLM - Rock Springs Field Office
280 Highway 191 North
Rock Springs, WY 82901

Dear Ms. Dana:

This letter outlines my concerns regarding the BLM's Jack Morrow Hills Coordinated Activity Plan Draft Environmental Impact Statement (DEIS).

First, please find attached newspaper articles printed in the *Lander Journal* in 1985 regarding a horse-pack trip I took across the Red Desert and the Jack Morrow Hills area in May of that year. The lengthy article after the trip is one I wrote for the newspaper. They were very interested in our story and account of the trip. (They gave us the film we used for the photos, as well.) I would like that June article entered into the public record for this comment period, because it presents a picture of the Jack Morrow Hills that you have failed to represent in your DEIS analysis.

What this article relates, and what the Jack Morrow Hills still represents, is a world-class resource of wildness. Its vast open spaces, sublime vistas, wilderness character (i.e., no people, little sign of man), varied landscapes, remoteness, diverse and unique plant life, phenomenal wildlife herds and opportunities for viewing of them, wild horses, rough character and Native American and pioneer/outlaw, history make it like no place on earth. And your DEIS failed to recognize this value and characterize it. Please allow these newspaper clippings to help fill in that gap.

Apart from this failure to recognize the above value of this resource, your agency also failed to accurately describe the current economic value the Jack Morrow Hills has in providing this wild land experience. And you certainly failed to consider changing demographics in the Rocky Mountain west that shows that these wild and values will only grow and increase in worth over time. As someone who has worked on and off in the outfitting, environmental education and wilderness guiding field, I find your failure to represent this sector of the economy a huge and seemingly purposeful oversight. What follows are my specific comments regarding this.

**Problems with the Economic Analysis for Recreational Use**

**Recreation data incomplete, underestimated or conflicting.**

Recreation visitor days are not tracked specifically for the Jack Morrow Hills (JMH) area. Instead, these figures were generated from extrapolating from the BLM Recreational Management Information System (RMIS), using the database from the Rock Spring office. I will later raise a concern that BLM's analysis fails to take into account the outfitter/guide operations based in Lander that use the northern part of the JMH area. Using data as well from the Lander BLM office might have provided a more balanced picture of recreational use.

The BLM summarizes its data for annual recreational use of the Jack Morrow Hills in its section *3.4 Recreation Resources*. Although it states that "Estimated recreational use within the planning area is summarized in Table 3-18," this table is incomplete. This table shows 16,308 Recreational Visitor Days (RVDs) for off-highway vehicle (OHV) use, and another 5,419 RVDs for what they term "dispersed recreational activities," including backpacking, camping, rockhounding, driving, etc. Hunting is not included on this table.

Two pages later in section 3.4.3 the BLM contradicts itself by stating that "using the RMIS database, it was estimated that individuals spend approximately 11,800 RVDs participating in these dispersed recreational activities [non-hunting or OHV use] in the planning area on an annual basis."

The BLM estimates hunting recreational use from data obtained from the WY Game and Fish Department. Table 3-20 summarizes estimated average hunting days but they state these hunting units are not comparable with other BLM recreation days. They estimate 3,072 annual hunting days in the JMH area for elk, mule deer, antelope and sage grouse.

The BLM's hunting days appear low to me compared with data I obtained from the Game and Fish as well. For example, the BLM assumes that only 70% of hunting for the Steamboat elk herd occurs in the area, producing only 183 days of elk hunting, whereas the other G&F data shows an average of 330 hunters for the 302 elk harvested for the entire herd.

**Conflicts and questionable assumptions within the recreation economic analysis**

**Sage grouse hunting assumptions in conflict; predicts listing under ESA.** In *4.7.1 Potential Impacts*, the BLM states that greater sage grouse hunting is assumed to remain constant throughout the time period of the study in the preferred alternative. Yet in *4.12 Socioeconomics*, it describes its modeling for economic impacts and states "Greater sage grouse hunting is expected to remain constant during the first part of the study period and then be eliminated with the expectation that the species could be listed as threatened or endangered under the Endangered Species Act." This is later contradicted in *Appendix 16 Economic Analysis Methodology* Table A-16-12 where it states for all alternatives that "Hunting days for sage grouse are expected to remain constant." Can we have faith in any of the statements regarding how this analysis was done?

**Assumes that harming elk herd size actually generates more recreation dollars from hunting.** In *4.12 Socioeconomics*, the BLM assumes that "management actions that causes herd numbers to decline may actually increase the number of hunting days spent in an area (i.e., hunters spend more days hunting fewer animals)" and so generate more economic benefit. This is confirmed on Table A-16-12 where the agency states "hunting days increase due to oil and gas

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development dispersing elk." The BLM fails to consider that declining herd size can also mean less available elk to hunt, fewer licenses issued and thus fewer hunter days.

**Eliminates all recreational activity by residents of the 3 surrounding counties (Sweetwater, Sublette and Fremont) from the economic analysis, assuming it is not significant to the local economy.** In explanation of this, the BLM states in Appendix 16 that "Money spent by non-residents is respent in the local economy, generating additional income and jobs for local residents. Residential spending on recreation does not play into this analysis..." They assume if not spent in the JMH, the same amount of money would be spent elsewhere in the county on some other activity. This is not necessarily true, nor does it negate the economic value of these lands for recreation. [Could one claim the same reasoning for oil & gas development? If not in the JMH area, they will just do it elsewhere locally?] This appears to be the most blatantly unsupportable assumption used in your economic analysis for recreation. It may have led you to essentially throw out over 75% of the value of these lands for recreation. It unjustifiably skews the analysis.

**Your modeling fails to include Fremont County economic and recreation data.** The BLM uses the 3 county area of Sweetwater, Sublette and Fremont as its base for determining the regional economy and for comparison to the Jack Morrow Hills. However, as already pointed out, their figures for dispersed recreational activities was only estimated using the Rock Springs database, and did not include the Fremont County office figures which may have provided better information regarding outfitter/guide use in the northern sections of the area. In addition, the input-output economic model used for the BLM economic analysis also excluded Fremont County. The BLM does acknowledge that "There may be certain businesses located in Fremont County that are not represented in Sublette and Sweetwater counties," but they only mention livestock auction & implement dealers, and not the large outdoor education/outfitter and guide businesses that are predominant there.

**Figures for earnings and jobs in recreation over the 20-year study period are excessively low**

Figure 16 shows annual employment supported by recreation, oil and gas operations and grazing. Figure 17 shows the potential earnings from these same activities over the 20 years of the study period. Specifically, for the preferred alternative, the BLM shows **only $3.4 million generated by recreation for the entire 20 year time period**. This translates into only $171,800 per year!

My quick non-scientific estimate of revenues generated from trips associated with the JMH area, using pamphlets taken from the Lander Chamber of Commerce brochure racks for only 4 operators (using quoted prices, number of trips and average # of participants) show an annual earning of $187,670 from just these few operators--in excess of the BLM total for all recreational uses!

In contrast to the BLM's data on hunting, the figures I obtained from the WY Game & Fish Department, show expenditures for hunting in the area to generate between $3.9 - 2.6 million annually. (These figures are attached to this letter.)

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How can the BLM's figures be so low, when they should cumulatively account for all recreational use, including dispersed activities, OHV use and hunting?

**BLM's own figures do not add up for total recreational earnings and jobs created. Again, the economic picture is highly under-represented.**
I took the BLM's listed figures for annual OHV recreation visitor days from Table 3-18, the annual dispersed RVDs from 3.4.3, and the annual average hunting days from Table 3-20 and used the *Economic Assumption for Recreation* chart at Table A16-13, which is the basis of the BLM's analysis. (Although the BLM stated earlier that the hunter days could not be compared with BLM RVDs, that chart does provide figures per RVD in total economic impact, earnings and jobs for elk, antelope, mule deer and sage grouse hunting, as well as for OHV and dispersed recreational uses.) Using the BLM's own data, I compute a total annual earnings level of $673,028 for all recreational uses, and an annual total number of jobs of 47. (Your Figure 16 shows only 23 jobs annually.)

Using the $673,028 figure for annual earnings then, the total earnings over the 20 year period should be closer to $13.5 million, and not the incredibly low figure of $3.4 million the agency shows in Figure 17. Is this difference a result of assumptions made in the modeling and analysis? Does the elimination of recreational expenditures by county residents account for the 75% reduction in recreational earnings? I do not believe that such an arbitrary assumption in the economic analysis is valid. It greatly distorts the true economic picture of these lands for recreational purposes.

**Summary on Recreation**
The BLM economic analysis for recreational use in the Jack Morrow Hills planning area is flawed and beyond meaningful use in the DEIS as a means to evaluate management alternatives. It grossly underestimates recreation economic activity, makes arbitrary or conflicting assumptions for its modeling, and leaves out important economic sectors, regions and populations in its analysis. These BLM figures also fail to compare realistically with other sources of information regarding recreation economic activity.

Next, I believe the DEIS has problems regarding its estimate of level of drilling proposed and the associated economic impacts. What follows are my detailed comment on this.

**Problems with BLM's Jack Morrow Hills (JMH) Oil & Gas Analysis**

**Proposed drilling levels are based on highest, unrestricted historic production levels.**
Although the BLM claims that the preferred alternative will be a moderate approach to development, providing "for controls on leasing and levels of drilling activity to prevent irreversible adverse impacts to sensitive resources… " in actuality, your projections for drilling reflect the fastest and most unfettered drilling in the history of the area. In Appendix 13 the BLM states "Past drilling activity shows that the highest 5-year rate was during the 1978-1982 period when 48 wells were drilled. Few land restrictions were in place at that time and most of the area was open for development. Assuming that existing requirements for protection of other resources would allow drilling activity at a level near the maximum rate observed for a 5-year

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period, a maximum rate of drilling can be projected. At a rate of 46 wells per 5-year period an additional 205 wells could be drilled in the JMH..."

The fact that your proposed number of wells is based on the fastest historic rate of drilling with the fewest restrictions--calls into question the agency's commitment to implement and enforce an adaptive management strategy that will truly impose stipulations and restrictions on drilling that will protect resources. Instead, the BLM appears to anticipate in its preferred alternative a "no-holds-barred" approach to drilling in the JMH. I have little faith that the adaptive management strategy has any real meaning given your plan to expedite drilling at the fastest pace on record.

**Although 50 coal bed methane wells are proposed to be drilled (as part of the overall 205), even the BLM's own analysis shows these are unlikely to be productive.**
In 4.8.1 the agency states "Currently there is no active coalbed methane production in the planning area because of low gas prices and water disposal costs." Later it adds "Coalbed methane wells produce at low rates and the projected producing wells would not contribute significant production to the much larger volume expected at conventional wells." Further, in 4-124 it concludes, "No coalbed methane project has currently proven to be economic in the Wyoming part of the Greater Green River Basin."

The BLM chose to propose 50 coalbed methane wells (two projects at 25 wells, each comprised of 16 dewatering and 9 gas wells) because that was the "assumed level of activity for which economic viability could be estimated" (4-124).

BLM appears to make every effort to try to show that these wells can be productive. In their economic analysis in Appendix 16, *Economic Impact Analysis Methodology*, they assume that these 50 wells drilled for exploration and development would average less than 1,200 feet in depth. However, this runs contrary to estimated depths of coal seams in the area and past coalbed methane drilling. Past wells in the area have had to drill to depths of 3,400-6,600'. In the analysis, the BLM shows economic benefits from the exploration stage of these coalbed methane wells, but they then concede later that "it was assumed that coalbed methane development would not lead to additional gas production in the study area."

Throughout the BLM's description of coalbed methane production, it also notes the additional costs required for produced water disposal: "previous attempts to develop coalbed methane in this part of southwestern Wyoming have produced water with elevated total dissolved solid contents, which were reinjected into the subsurface to comply with surface water quality standards for the Colorado River basin" (A-13-14). The BLM notes that in the past, coalbed methane wells have been abandoned due to low prices, disappointing results, and "environmental concern over disposal of produced water."

**BLM's presentation of oil and gas economic impacts highlights the importance of the oil and gas industry in general to the economies of the 3 surrounding counties, yet fails to put in perspective how small the contribution of current JMH production is in comparison.**
The BLM swamps the reader of their DEIS with statistics about the economies of the surrounding region: Sweetwater, Sublette and Fremont counties. The agency points this out regularly with statements such as "given the importance of mineral tax revenues to local and

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state governments entities in Wyoming...." (4.12.6) and "mineral production in the study area [the 3-counties] is a major source of tax revenue for government entities" (3.9.4). I do not deny this reality, but these sweeping statements do not necessarily apply to activity in the JMH area. The BLM has failed to put the JMH production levels into context within this larger economic picture. When one reads the DEIS carefully, however, even the BLM admits that the projected JMH production levels are insignificant to the regional economy.

**Current oil and gas taxes collected for the JMH area are insignificant.**

There are three forms of taxes collected on oil and gas operations: ad valorem tax revenues that go directly to counties (based on both production and property valuation); state severance taxes (go to states and a small percentage is redistributed back to local governments); and federal mineral royalties (a very small portion may return to local governments). The BLM does not reveal the total amount of federal royalties collected in the counties (only the portion distributed back to local governments), and so I can not use this tax category in our comparisons with the JMH actuals and projected potential. What follows is my chart for comparing taxes, using data from different sources within the DEIS.

| | ad valorem/ property taxes | severance taxes |
|---|---|---|
| 3-county region total | $176,180,070 | $120,654,906 |
| 3-county region-oil & gas | 117,016,416 | 105,164,260 |
| JMH portion | 332,361 | 314,315 |
| JMH % of region total | .2% | .25% |
| JMH % of oil & gas contribution | .3% | .3% |

In summary, currently the JMH contributes $332,361 annually in ad valorem taxes to Fremont, Sublette and Sweetwater Counties. (Or $117,597 per county, although in reality the split is very uneven.) This represents only 2 tenths of one percent of the total ad valorem and property taxes collected by these counties, and only 3-tenths of one percent of the taxes contributed by oil and gas in the region. If proportion of severance tax returned to local governments is considered, it is estimated this only adds an additional $20,000 annually to tax revenue, split between the counties and all towns within the 3-county area.

Severance taxes generated by the JMH area equals only 2-3 tenths of one percent of the region's tax contribution.

**Even with the projected increase in gas* development over 20 years in the DEIS, BLM admits that for all their alternatives this additional economic activity (as measured by real earnings, employment and taxes) falls below established thresholds and is not considered significant to local counties and their economies.** (*Coalbed methane and oil are ruled out as insignificant from the start in the analysis.)

Regarding taxes, the BLM projects for their preferred alternative that a total of $98 million would be collected in taxes over the 20 years, inclusive of all federal state and local taxes. This

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averages into $4.9 M annually (although the revenue would not be spread evenly) for all taxes, in comparison to the $1.18 M currently generated. (Although the BLM states in 3.9.4.4 that this current cumulative total for 2001 is $1.58 M, Tables 3-33 through 3-35 using 2001 data show a total of $1.18 M for all federal, state and local taxes. I use this latter documented figure.) Even at this increased level, the $ 4.9 M would represent only 5-6 tenths of one percent of the taxes generated regionally.

For total real earnings, the DEIS states: "On an annual basis, total real earnings would increase between $2.4 and $3.3 million under various alternatives. This equates to less than 1 percent of total real earnings in the study area for 1999 and is thus not considered significant." (The preferred alternative projects earnings increase at $2.8 M per year.) These figures for earnings include recreation, oil and gas and grazing. Figure 17 shows this amount broken out by economic sector. Oil and gas alone are estimated to be $50.6 M over the 20 years or $2.5 M annually. Because the BLM did not present figures for current earnings from the JMH area, I can not compare these increases to any current level. (The agency only provided oil and gas earnings information for the state and 3-county area.)

**Summary**

For its preferred alternative, the BLM uses high and optimistic assumptions in its oil and gas economic analysis. Despite these favorable factors (fastest rate of drilling ever, 50 cbm wells that prove unproductive), the economic impact to the local economy of oil and gas drilling in the JMH remains insignificant. Projected increases in local taxes and real earnings will represent only about one-half of one percent of current taxes collected overall in the area, and only 1 tenth of one percent of the area's total earnings.

Given the agency's gross under-estimation of the recreational economic benefits and its overly optimistic picture for oil and gas, I place little faith and reliability in the entire economic analysis in the DEIS. It appears to be greatly biased in favor of promoting oil and gas development. As a result, the analysis fails to provide the public and public officials the information they need to make informed decisions regarding future management. I urge the BLM to redo their analysis and correct their gaps in data and rework their many erroneous assumptions. Probably what would be best is for an independent entity to conduct a new analysis.

Another point that concerns me is the lack of agency resources and protective measures recommended in the preferred alternative for the Native American respected places and holy sites. I recommend that the Indian Gap Trial have a 5-mile from center on each side viewshed protection zone, as those similarly proposed for non-Indian Tails.

I also believe that the BLM fails to adequately protect the numerous Native American sites throughout the region. A 100 foot buffer zone from surface disturbance is not enough of a guarantee, nor does it provide an adequate buffer if an accident were to occur (large truck going off the road?) I suggest a 1/4 mile automatic buffer around all sites, known and those to be found in the future, from all surface-disturbing activities. In addition, the BLM should then work with the Tribes to develop a further list of protective measures that will be tiered to the relative importance and fragility of each type of site.

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Also on this topic, I believe the BLM failed in its outreach duties to involve and engage the Shoshone and Arapaho Tribes in consultation for this DEIS. Everyone in this area knows that culturally, just a letter sent to the Business Councils is not the way that you get their attention on matters that should concern them. Many federal agencies such as the US Fish and Wildlife Service and the NRCS know this and operate in a different way and very successfully, with the Tribes.

I believe also that the BLM should invest resources in greater outreach to and support to the Tribes to help them develop their internal capacity to evaluate cultural sites and provide consultation with the BLM. The Tribes does not have an excess of funds to spend on cultural site protection or consultation, but the BLM could help this situation by assisting in the procurement of federal funds for this need. I also find it a double standard that Native American Tribes appear to hold all the responsibility for ensuring adequate protection of their past cultural sites on public lands, whereas the ancestors of the outlaws, Pony Express Riders and Oregon Trial pioneers are not required to provide this same level of involvement and oversight. Native American holy and cultural sites should be protected with as much vigor and resources from within the federal agencies as for other cultural sites. But instead, they seem to fail into a second class status...as is evidenced within this DEIS. Non-Indian cultural sites overall receive far better protective treatment in the BLM's DEIS than Native American sites.

In addition, I disagree strongly with the BLM's contention that as an environmental justice community, the Tribes of the Wind River Reservation are not impacted by decisions within the DEIS. The 1994 Environmental Justice Executive Order 12898 requires that federal agencies consider the affects of their actions on minority populations and if policies have adverse environmental impacts to such populations. The BLM report discusses this and acknowledges that the Native American community in and around the Wind River Reservation in Fremont County qualifies it as an Environmental Justice (EJ) population. But then the BLM dismisses this because "these [Wind River Indian Reservation] areas are not likely to be impacted by actions within the planning area given the geographic distance between the reservation and planning area."

This analysis is wrong. Geographic distance from the planning area does not mean that Native Americans around the reservation will not be impacted. The Jack Morrow Hills area was originally part of the Wind River Reservation as defined under the 1863 treaty. The area is acknowledged by the BLM itself as used frequently by Native Americans, including the Shoshone and Arapaho, the two Tribes of the Reservation. The BLM also describes in its report its extensive contact and consultation with the Tribes to obtain information about sacred and "respected" sites within the planning area--which still hold significance for the Tribes. To then summarily dismiss this same Native American population as "not likely to be impacted by actions within the planning area" is ridiculous. Through the environmental land use decisions proposed in the BLM's report, the Indian populations of the Reservation are greatly impacted: cultural and sacred sites could be destroyed or harmed and have less protective standards than for non-Indian sites. This environmental justice executive order was designed to help agencies identify their discriminatory policies; the BLM's dismissal of its applicability is erroneous.

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Finally, let me state that I do not support any of the alternatives proposed in the DEIS. Instead, I strongly support the Citizens Wildlife & Wildlands Alternative. You will be receiving a copy of that proposal from others, and by reference, I advocate that the BLM adopt that proposal for its land management in the Jack Morrow Hills.

Thank you for your consideration of my comments and please feel free to contact me if I can provide any additional information. Please find attached and for the public record the newspaper clippings from the *Lander Journal* and the data from the Wyoming Game and Fish Department that I referenced under the economic discussion.

Sincerely,

Stephanie Kessler

Stephanie Kessler

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*Red Desert Estimated Harvest & Hunter Expenditure Information for Big Game and Sage Grouse Species 2000 and 2001 data*

| SPECIES | HERD UNIT | HUNT AREA | # HARVESTED | | # HUNTERS | | $ EXPENDITURES | |
|---|---|---|---|---|---|---|---|---|
| | | | 2000 | 2001 | 2000 | 2001 | 2000 | 2001 |
| *Antelope* | Red Desert (#615) | Table Rock (#60) | 120 | 64 | 118 | 77 | $ 130,200 | $ 77,888 |
| | | Chain Lakes (#61) | 298 | 162 | 338 | 196 | 323,330 | 197,154 |
| | Sublette (#40) | Steamboat (#92) | 961 | 358 | 1,149 | 433 | $ 1,049,195 | $ 435,686 |
| *Mule Deer* | Steamboat (#430) | Steamboat (#131) | 295 | 263 | 862 | 838 | $ 813,610 | $ 622,784 |
| | Chain Lakes ((#650) | Chain Lakes (#98) | 41 | 50 | 120 | 116 | $ 113,078 | $ 116,400 |
| *Elk* | Steamboat (#426) | Steamboat (#100) | 292 | 311 | 348 | 378 | $ 1,111,936 | $ 961,923 |
| | Shamrock (#643) | Shamrock (#118) | 55 | 45 | 110 | 81 | $ 209,440 | $ 139,185 |
| **Subtotals** | | | | | **3,045** | **2,119** | **$ 3,750,789** | **$2,553,020** |
| *Sage Grouse* | Red Desert (#9) | Red Desert (#9) | 1,144 | 581 | 327 | 194 | $ 147,576 | $ 79,597 |
| ***TOTALS*** | | | | | **3,372** | **2,313** | **$ 3,898,365** | **$2,632,617** |
| | | | | | | | ($3.9 million | $2.6 million) |

*Data taken from Wyoming Game & Fish Department's 2000, 2001 Annual Report and 2000 & 2001 Harvest Reports

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This is a signed hard copy of comments e-mailed 5-21-03

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May 16, 2003

Re: We support the ***Citizens' Wildlife and Wildlands Alternative*** for the Supplemental Draft Plan for the Jack Morrow Hills Study Area.

Offer no new mineral leases in the JMH CAP area; buy back or exchange ones already granted; allow suspended leases to remain under suspension until buy out or trade.

Dear Ms Dana:

We live in Sublette County, to the west of the JMH. We are bordered on three sides by Public land managed by the Bridger-Teton National Forest. "Fencing out" is a big task for us every livestock grazing season. We are "interested public" for several BLM grazing allotments in our county and one of us participates in the Green Mountain Common Allotment Working Group. Mule deer and pronghorn that pass through here, winter on BLM land nearby. We are in the throes of oil & gas development in our county. B-T land that lines our valley has already been leased and explored for minerals. Several natural gas wells were drilled and produced gas but are currently capped. Therefore we have a special interest in the management of both of the federal land management agencies. Several years ago one of us attended a field trip in the JMH. One of us hunted in an area adjacent to the JMH. Both of us frequently travel on several sides of the JMH.

**MINERALS DEVELOPMENT:**

We understand that your current effort is called planning, and that the product of your effort will be called a plan. Yet, we also understand that even experts disagree on the amount of natural and CBM gas that lie under the JMH. We understand that you are not sure of where new wells might actually be drilled, or of how many wells might eventually be drilled and developed. Presumably nobody knows how new or experimental recovery technologies will unfold. So your plan will cover a great deal of unknowns, at least in the area of minerals. Therefore, your CAP is a more or less educated guess, prediction, or estimate – not a plan as we know it.

Actual findings from exploration plus possible new rules and regulations plus events elsewhere plus changes in price and supply plus new developments in alternative sources of energy could shift the outcomes of your plan considerably. You are really shooting at a moving target that has mineral development as its bull's-eye. Presumably you understand much better what you have in the conditions of and problems with Heritage Resources, Air and Water Quality, Recreation, Livestock Grazing, etc., etc. Yet your preferred alternative is a speculative "plan" in which mineral development would dominate, to the diminution of all those other public land uses. The Public is left hoping that you miss the bull's-eye and concentrate on the outlying circles – the ones you should have aimed at in the first place.

We assume that you have a budget, reliable over the next two decades, that will guarantee that you will be able to implement your plan. Do you have enough personnel to monitor in all areas? Can you afford adequate supplies for restoration?

The number of permitted new wells in your preferred alternative is not large enough to make a real difference. At the same time, the number is too large to protect the whole resource. Just what sort of energy relief would 205 liquid and 50 CBM wells bring to the nation's needs? But there will be not just one foot but many feet in the door if you offer new leases and permit new wells. You will be overwhelmingly pressured to allow denser development.

Surely you know that opening an area of our Public Land to leasing means you are willingly losing control over our land that you are supposed to manage for us. Each of you at BLM is a part owner, also. Would it really be a conflict of interest to manage BLM land from that point of view?

Surely you have seen aerial photos of the minerals development around Big Piney and south of Pinedale. Surely you are aware that gas and oil projects are not limited by the original deals made with BLM. Operators on parts of Jonah II want several times more wells than they were originally permitted to drill – and are expected to get them because Operators are rarely refused.

We will hear about the Operators who already have such an investment in the area that it would be unconscionable to deny them the opportunity to optimize their efforts. We will hear about the wicked rulers of oil-rich countries. We will hear that alternative fuels are still 20 years in the future – just as they were 20 years ago when policy leaders failed to actually get the programs started. We will hear that we need lots of fuel for our still inefficient SUVs because Detroit would suffer if fuel economy were legislated. We would say goodbye to wildlife, to recreation other than ATVs, to the unmarred enjoyment of religious, cultural and historic treasures, to opportunities for scientific studies.

In our experience with grazing lease renewals, a no-grazing alternative is offered, along with the no-change and new alternatives. NEPA requires a full range of alternatives but your current SDEIS doesn't provide that range. Why isn't there a Preservation Alternative in the JMH CAP that would prohibit new minerals leasing.

exploration and development in the CAP area and that would provide for the reacquisition of existing leases? That last part is more than theoretically possible. We saw the proof in a **Casper Star-Tribune** article from 4-3-03. The title of the article was *Griles' Actions on Offshore Leases Eyed*. We read that in September of 2001 the Bush administration paid Chevron $46 million to abandon its planned Destin Dome 56 project. One of the wells would have been drilled just 30 miles from Florida beaches. "Griles also participated in at least 10 meetings regarding 36 oil and gas leases off the California coast." There is now a possibility of a federal agreement to buy back the California leases. So why not in the JMH?

Letters written to the Editor and printed in state newspapers claim that relatively limited and stable minerals production in the Red Desert over the previous four or five decades has had a benign effect on the other resources on the public land. Apologists for the industry patiently describe the area as still unspoiled, with a full complement of indigenous wildlife and native plants, fossils lying about waiting to be found and studied, petroglyphs still safe and sound, cultural and religious and historic sites unsullied, the fraternal twin speed bumps of boom and bust smoothed out. Maybe so, maybe not.

Much is made of desert elk that were brought in between 1944 and 1967. Since elk were originally a plains species, were they not originally in the Jack Morrow Hills? Were they pushed out before they were brought back? At any rate, one cannot reliably project a scenario of leisurely and nurturing minerals development into the next several decades. The CBM industry is still new and developing, and technology has advanced for natural gas and oil activities.

**ADAPTIVE MANAGEMENT AND MONITORING:**

An article in the 5-14-03 **Jackson Hole News and Guide** reported on a public forum held in Jackson a few days earlier. One participant, John Schiffer, a rancher and a Republican Wyoming State Senator, indicated that "oil and gas companies will not voluntarily police themselves." Governor Freudenthal agreed.

We read that, to solve that problem, you pledge to use adaptive management strategies which will guarantee "good" development. This reminds us of the current scoping stage of an EIS being developed to decide the future use of some Bridger-Teton National Forest land on the north half of the Wyoming Range. Some domestic sheep grazing allotments are the focus. They stretch along the crest of that part of the range and overlay some of the summer range of the Jackson Bighorn Sheep Herd. Unfortunately, nearly everyone – including the USFS – agrees that when wild and domestic sheep intermingle, disease will eventually exterminate the wild sheep.

The Forest Service says that one of its responsibilities is to provide wildlife habitat. The USFS maintains that it will use adaptive management strategies to manage that habitat – by which it means vegetation. But it's the responsibility of the Wyoming Game & Fish to manage the wild animals. However, by permitting contact between the two species, the USFS is actually doing some management of wildlife, admit it or not.

Meanwhile, by concentrating their adaptive management strategies on vegetation, the most important issue – disease -- is totally neglected. USFS states that it must provide for multiple use, and so it must permit livestock grazing. Here again it is stuck on vegetation. Commercial exploitation of public forage must be allowed, even if it diminishes recreation. No amount of adaptive or any other kind of management will help you get to where you should be going if you head off in the wrong direction.

Similarly, BLM must not move toward maximum resource extraction as its sole responsibility. You have heard over and over again from the public – both local and state and national – that they have multiple expectations from their land. Myopic focus on energy development in the JMH CAP area will require the public to sacrifice more than they have demonstrated a willingness to forgo.

At the recent Jackson meeting, State Senator Schiffer reported that, "Companies (in the Powder River Basin) promised more than a year and a half ago to adhere to 'best management practices' but that has not happened. 'The methane industry has already had their chance, and now it's time to use a little bit of stick and not so much carrot.' "

State Senator Schiffer told of a ranching couple in the Powder River Basin who won an $850,000 settlement for damage done to their private lands. A CBM company had leased and developed CBM from under the couple's surface property. The company was reported to have " 'tore their place apart.' " The couple defended their private surface property rights by bringing a lawsuit. In the JMH CAP area, we, the public, have to depend upon you at BLM to be as vigilant and defiant. Are we justified in that hope? What is the amount of bonding that you require from Operators to assure us of the guarantee of being "made whole again?" Does a bond cover many wells scattered aver an area, or each well? How do we know that, a few years hence, BLM won't drop or decrease bonding as the result of some executive order or regulation change?

State Senator Schiffer also told of another couple who managed a quarry on some state land and who got better surface results from a different CBM company. "The couple told the senator that when the drill rigs pulled up, the duo went to town and bought a four-wheeler and a shotgun. The woman spent a year out in the field patrolling the drillers' activities, and the company did a great job." Surely you don't want members of the public to do something similar. But will you, who have almost never rescinded a grazing lease when the Resource has been damaged and who have almost never allowed unused or unwisely sold minerals leases to expire do as good a job for us? Will you be out there monitoring daily with the determination to use if necessary the legal equivalent of a shotgun? Wouldn't it be simpler, easier and safer as well as more environmentally responsible to declare the JMH off limits to industrial development??

If you are unable to make the right decision because of political pressure then please list the oil or gas wells that have been restored so far in this area, by name of company. With the four or five decades of mineral development already under your belt, you must have some. Please state directions so that the reclamation sites may be visited by the public to see the quality of restoration. Please include GPS coordinates. We assume that

restoration means return to original condition, so that the restored area fits seamlessly into nearby areas IF you as BLM managers have kept them in original -- pre-settlement condition. But IF you have allowed the nearby land to be overgrazed and roaded, then the minerals companies' restoration must look MORE natural than the nearby land until you do your own restoration work. That means that you don't simply allow some native grass and forb seeds to be sprinkled about. We hope you have a generous restoration budget. What part of the costs will be borne by the Operators? Are there any other wildlife habitat mitigation measures for which they would be responsible?

We have heard that there is not nearly enough money in your budget for the monitoring that IS Adaptive Management. We fear that you may draw personnel from their regular tasks to do the paperwork, etc. that would come with mineral development as has happened in other BLM resource areas in the state. If so, you will fall behind because, as we understand it, adaptive management is very much of the moment. You will not have the fresh data to direct adaptation.

**TRAVEL MANAGEMENT:**

Minerals development roads must be so restored that there is no trace that there was once a road there. Sagebrush must grow there again to mask the route, or else ATVers will see the unnatural grassy outline as an unobstructed path to tear about on. In addition, sagebrush is an important source of food and security for indigenous animals.

You must refine and enforce a travel plan for the JMH. Both steps will be difficult if permitted routes have not been clearly marked in the past or where ATVers have grown accustomed to pioneering routes. We read in a letter to the Editor of the **Casper Star-Tribune**, printed on 5-18-03: "For the past five years, from May1 through June 30, every year there is supposed to be no auto traffic allowed near Steamboat Mountain. It is the BLM's own rule, and its primary purpose is to prevent harassment of elk during the calving season. Will BLM uphold that rule or circumvent it again at the request of gas development?"

**AIR, WATER, SCENERY-- & NOISE:**

If you are able to and allowed to go back once more to the drawing board to write a Preservation Alternative similar to the Citizens' Wildlife and Wildlands Alternative (which, again, you should consider required by NEPA so as to offer a full range of alternatives), air and water quality would benefit as well as wildlife, recreation, soil stability and human enjoyment of heritage resources. Air pollution sources associated with minerals production -- including flaring, compressors, vehicles used to transport workers, disturbed soil during the building of roads, pads and pipelines, and water and wind erosion of soils from the new roads -- would be largely eliminated. Most artificial lighting at night would be eliminated. The scarce water in streams would be spared some sediment and petrochemical pollution. The minerals development you propose to permit would not be as dense as the development on the noticeably-noisy-at-night PRE-Jonah II

Infill Project near Boulder. But once you begin to write the first expanding amendments, you will have industrial sounds out there on the desert.

Because nobody seems to now be able to predict the actual parameters of a fully developed CBM development out there, nobody knows how the aquifers will be impacted. That would be more than a bit of a gamble.

**WILDLIFE:**

We know that you have, by now, received a lot of public comment concerning the effects of minerals development on wildlife – especially on big game and sage grouse. Those species are economically and recreationally valuable. But wildlife species without direct benefit to the economy or recreation are not without value. Species, sometime large and sometimes inconspicuous, have roles to play. Some cause-effect chains are at least partially understood; others haven't been deduced yet.

For example, we read an article in the Spring, 2003, **Wild Earth** journal about the "keystone megaherbivore hypothesis" concerning the mammal extinctions that occurred at the end of the last glacial age – the Pleistocene- Holocene transition. Throughout the Americas and Eurasia, 100% of mega-mammal, 76 % of large mammal, 41% of intermediate-size mammal and 1.3% of small mammal species became extinct. And most of those species had survived previous interglacial periods that had been as bad or even worse in terms of living conditions. The expansion of the Clovis culture across North America coincided with those extinctions. Is it likely that the Clovis people directly exterminated those mammal species in those percentages? If so, did they realize what they were doing? Thinking now suggests that the killing of as little as 10% of one species of megaherbivore – the mammoth -- could have caused the eventual cascade of extinctions. Quite possibly the newly-arrived, adaptable and expanding Clovis people were the agents. Now contemporary humans are unintentionally changing populations of animals and or plants, with little more awareness than the Clovis people had of what the ultimate results might be. That should give you more than enough justification for preserving a special ecological area such as the JMH.

Wildlife habitat will be fragmented by more roads. Wildlife food and security will be impacted. More roads, legal or pioneered, could contribute to more poaching and more raptor target practice.

**LIVESTOCK GRAZING/VEGETATION/"IMPROVEMENTS:"**

When you come right down to it, wildlife is a better product than domestic livestock to be raised on our Public land. At the very least, livestock should not be allowed on big game parturition and other crucial seasonal or yearlong habitat areas. Fragile areas such as the sand dunes and seasonal wetlands should not be grazed. Riparian areas, which harbor the greatest variety of wildlife, should be protected.

That does not mean that fences should be built around them, for that would impact negatively on wildlife. Nor does that mean that new water developments should be developed in areas (usually uplands) currently unused or lightly used by wildlife. Herding should be used instead of fences. Perhaps some type of water development could occur relatively near riparian areas or springs. But, we have seen some really "hammered," hummocked soils quite close to (unfenced) riparian areas in other BLM Resource Areas. Cattle chose to stay as close as possible to their water source to avoid undue exertion. Indigenous ungulates adapted successfully to native vegetation and climate conditions (or moved), and their populations were further controlled by indigenous predators.

Do you have relatively recent AMPs for your grazing allotments? We follow several grazing allotments on another BLM Resource Area. AMPs were promised for three of them in the RMP of 15 years ago. The plans have still not been developed. The leases for those allotments contain very few specifics. We were told that everything was okay because informal agreements had been reached with permittees and to formalize them would require more monitoring. That's a problem we would welcome. The existing RMP does not state a general allocation of forage between wildlife, livestock and plant regeneration because such decisions should be site-specific. So that little detail of forage allocation is missing from the RMP, from the non-existent AMP and from the grazing lease. We sincerely hope the situation is not the same for your grazing allotments.

An HMP was also promised in the 1988 RMP for "our" allotments along with others nearby. As yet no HMP has been developed either. Have you developed an HMP in the JMH? To have one would be a basic requirement if you make the mistake of allowing increased minerals development and/or continued livestock grazing.

We strongly believe that systems of exclosures should be developed in all BLM Resource Areas. A system should include different and representative vegetation types and slopes, etc. We ask that you build several exclosures in the JMH with fence that can be crossed by most wildlife. We ask that these exclosures be at least several acres in size and that they are maintained. Cages a square meter in size will not suffice. Sure, exclosures are expensive and time-consuming to build. But, as the saying goes, "They're not making any more land;" we'll have to make do with what we've got. We ask that monitoring data from these exclosures be available at the Rock Springs Field Office and, perhaps, on the Net. If you already have such exclosures, please send us details of the location. If you do not have such exclosures, include in your Final EIS the planned location and timeline for building and monitoring that you intend to enforce. If and when you are wise enough to withdraw all grazing leases, you won't need exclosures.

Can you assure us that you have adequate personnel to do vegetation and soils monitoring? Can you assure us that such personnel will not be pulled away for other, "more pressing" tasks such as aiding with minerals development?

**WILDERNESS:**

Let's get the WSAs expanded and designated. We've been visiting wilderness areas since 1961, when many were still called Primitive or Wild Areas instead. "They aren't making any more land," but they are making more people, and you could help out by making more designated Wilderness.

We wish to thank you for this opportunity to comment on this important expanse of Public land in Wyoming.

Sincerely

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May 23, 2003

Jack Morrow Hills CAP Team Leader
280 Highway191 North, Rock Springs
Wyoming 82901.

Re: Jack Morrow Hills Coordinated Activity Plan and SEIS

Dear JMHCAP Team Leader:

Please accept these comments and note that my public testimony (Liz Howell) at the Lander, WY April 10th hearing should be included. The Wyoming Wilderness Association WWA believes in and advocates for the value and protection of wilderness and wild lands. We are dedicated to identifying and preserving natural ecosystems that embody the history, beauty, sustenance and spirit of Wyoming. WWA has been advocating for the protection of Wyoming's wildlands since 1979.

The Jack Morrow Hills Coordinated Activity Plan (JMHCAP) area should be protected for the many generations to come. The alternatives described in the Bureau of Land Management's draft Red Desert Management Plan (the Jack Morrow Hills Coordinated Activity Plan) do not adequately provide this protection. We, therefore, are in support of the Citizens' Wildlife and Wildlands Alternative (CWWA). The CWWA is supported by a wide coalition of organizations and businesses, because it not only makes good economic sense to set aside wilderness and wildlife habitat areas for the long term consideration, but the BLM has allowed too many industrial activities to occur in the Red Desert over the last 25 years and the areas surrounding the Jack Morrow Hills are seriously impacted.

The BLM's preferred alternative makes a stab at trying to protect some of the area some of the time, but I believe that the CWWA will provide BLM with a suitable and defensible "Conservation Alternative" -- one that prohibits large-scale mining and oil and gas development within the planning area, while still allowing for other multiple use activities within the Desert, such as recreation, hunting, sustainable grazing and carefully controlled OHV use. In addition, the CWWA would prevent the construction of new roads and developments in roadless areas adjacent to Wilderness Study Areas and designate the lands in the planning area as one large Area of Critical Environmental Concern.

The Red Desert's JMHCAP is one of those places that should have been long ago congressionally set aside and protected. The JMHCAP was set apart from the BLM's planning in the Green River Resource Management Plan NOT because of its great energy resources, but for its extraordinary values of wilderness, wildlife and history.

The fact that 45% of the JMHCAP still qualifies and meets the suitability requirements for Wilderness demonstrates this urgent need, as the oil and gas wagons close in, to protect this place now.

The BLM is not listening. In the Draft planning process, 12,000 comments were received. Today there are over 30,000 comments already received, the majority of which demand complete protection for the area in the JMHCAP. How many citizens of the United States does the BLM need for them to understand that the JMHCAP area is important for the future of this country?

The world is rapidly changing. We have to seek that which makes us thrive – not in a material sense – but from our hearts. And the Jack Morrow Hills contain all the elements of "special":

- 187,000 acres of crucial winter and yearlong elk habitat. The maintenance of unfragmented landscapes is crucial to sustaining big game populations;
- 17 raptor species in need of nest and prey species protection. The BLM has made no quantifiable statements in the guaranteed protection of raptors;
- Imperiled sage grouse and mountain plover in need of habitat protections. many lizards, snakes and other reptiles with special protective needs;
- 14 rare plants and several plant communities in need of complete protection;
- 4 National Historic Trails with corridors that need protective buffers;
- Large numbers of extremely significant archeological sites with critical protective needs;
- Numerous identified and unidentified Native American sacred sites within the JMHCAP;
- The Jack Morrow Hills is situated in a high desert environment where the air quality on most days is pristine. Clean air is a resource that should not be allowed to diminish;
- Many water sources, the lifeblood of the Red Desert that trickle out in scattered streams, lakes, ponds, springs, seeps and other wetlands, in need of protective devices;
- Seven Wilderness Study Areas (WSA) totaling 117,000 acres, yet the Citizens' Wilderness inventories have found 280,000 acres of Wilderness in this area.

Oil and gas is a fleeting and unsustainable resource. What damage occurs cannot be mitigated. All oil and gas leases, existing and predicted, can be traded or bought out. Protecting the Jack Morrow Hills wild lands will be the best move Wyoming can ever make – it will last forever and be our greatest gift to our future generations.

WWA urges that the BLM adopt the CWWA as the "multiple use alternative" that protects the many values of the Red Desert. The industrial impacts and cumulative effects of years of permitted activity and illegal off-road use of the Red Desert is taking its toll on the scenic qualities and wildlife habitat. History has shown that there have been numerous attempts by citizens, politicians and agency officials over the years to protect this unique area, knowing of these extraordinary areas, their qualities, their history, geology and biology and their need for preservation.

## WILDERNESS STUDY AREAS (WSA)

Of the 622,000 acres of the Jack Morrow Hills planning area, there are seven WSAs consisting of 117,000 acres. The Wilderness Study Area boundaries developed from the Intensive Inventories in the 1970's and subsequent recommendations were determined by the BLM's assessment of the potential for mineral and oil and gas extraction - not by the wilderness qualities alone. Although mandated to look at the potential wilderness areas for their wilderness qualities without the conflicts of industrial development, the Wyoming BLM recommended much smaller boundaries for Wilderness Study Areas, and smaller yet for wilderness designation. Only 70,000 acres were recommended for Wilderness.

The BLM needs to further inventory the WSA's based on the wilderness resource qualities alone without influence from the oil, gas or mineral potential. The inventory in the JMHCAP found only 8,000 acres of the Pinnacles WSA worthy of recommendation. Since this was determined far in advance of the Utah case settlement that would effect new wilderness recommendations, the BLM should include the Pinnacles WSA recommendation into their final proposal. To not recommendation one acre of wilderness in the JMHCAP would not be adhering to the Multiple Use/Sustained Yield Act.

"The Citizen's Wilderness Proposal for Wyoming BLM Lands" has inventoried and found 1.1 million acres worthy of wilderness protection in Wyoming. In the Jack Morrow Hills CAP, 117,000 acres are in Wilderness Study Area status. 50,000 more acres were added from additional inventories completed in the last 2 years. The WWA strongly urges the BLM to consider the Citizens' Wilderness Proposal for wilderness qualities, and chose the CWWA alternative to protect ecosystem representative boundaries. The protection of the Red Desert wilderness areas would include: Oregon Buttes, Honeycomb Buttes, Harris Slough, Bush Creek, Joe Hay Rim, The Pinnacles, Buffalo Hump, Boars Tusk, Sand Dunes, East Sand Dunes and Red Lake - totaling approximately 280,000 acres - more twice what the Jack Morrow Hills CAP recognizes.

## VISUAL RESOURCE MANAGEMENT

WWA recognizes the ever more important protection of scenery and view sheds especially in this particular desert habitat where no natural buffers protect the view for a hundred miles. The Wilderness Study Areas and proposed wilderness areas should have priority view shed plans that would disturb the scenic value and overall visual quality. The BLM must manage the impacts of human activities and other intrusions on the visual landscape. To achieve this objective, the following actions are recommended:

- Wilderness Study Areas (WSA) and WSA expansions recommended by the Wyoming Wilderness Coalition (SDEIS Vol. 2 at A18-1) are managed VRM Class I.
- National Historic and Scenic Trails and viewsheds (5 miles either side) managed VRM Class I.
- Backcountry byways and their viewsheds designated VRM I;
- Areas of Critical Environmental Concern (ACECs) whose designation is based in whole or in part on scenic and aesthetic value would be managed as VRM Class 1; all other ACECs would be designated VRM Class II.

**ENERGY DEVELOPMENT**

This area has long been the focus of multi-national oil, gas and mining companies. Over 90% of BLM lands in southwestern Wyoming are currently open to oil and gas leasing and development. Thousands of gas wells already sprawl throughout the region, linked together by a growing web of service roads, giant overhead powerlines and pipelines. These gas fields fragment wildlife habitat, disrupt animal behavior, and degrade air and water quality. According to the BLM, development pressures in the region will only continue to grow, with 10,000 to 20,000 natural gas wells projected in the region by 2010. The stated 220 wells that are projected in the area are not honest or needed. The 220 wells are projected by very limited analysis with little or no basis. The energy gained would be so minimal and the loss so great, the public cannot see the benefits of any energy development to the Red Desert.

The BLM cannot provide limited opportunities for mineral extraction and energy development while protecting other resource values -- the viewsheds are too vast, water too precious, wildlife too sensitive and citizens too loving of the area.

Opening the area to energy development would merely open the door to future conflicts of large-scale oil and gas and mining activities. Actions to protect the area from minerals and energy development include:

- No oil and gas leasing proposals for the development of the critically important elk habitat area of Steamboat Mountain should be allowed. For years, wildlife experts and citizens have fought any development schemes to Steamboat Mountain to protect the resident elk population. Steamboat Mountain should be studied for Wilderness recommendation. The checkerboard land ownership should be swapped for consistent management.
- Closing the area to new leasing.
- Suspending leases in the planning area while funding is pursued for lease buy out or exchange. Because future development would likely lead to resource conflicts, efforts would be placed on reacquiring both producing and non-producing leases.
- The entire planning area would be closed to coal exploration activity. (JMH Alternative 2).
- Federal coal lands within the Coal Occurrence and Development Potential Area would be closed to leasing and development to protect other resource values in the planning area. (JMH Alternative 2).
- Withdrawals from mineral location would be pursued over the entire planning area, except for a five-acre site designated for recreational mining.
- The entire planning area would be closed to mineral material sales.
- Coal bed methane development is prohibited; existing leases swapped or bought out.

Permanently protecting 600,000 acres out of the 4 million acres of public land in the Red Desert would safeguard at least one portion of the Great Divide Basin's magnificent high plains and desert landscape.

**EXCHANGES ENCOURAGED**

The CWWA would ensure the protection of this national treasure. WWA supports the Citizens' Alternative and urges its adoption in the Record of Decision. In addition, the conservation groups have also asked that the Department of the Interior aggressively pursue opportunities to buy and/or exchange out existing oil and gas leases that blanket much of the study area. Monies for such a measure could be appropriated through Title II of the Federal Land Transaction and Facilitation Act. This appropriation has not been seriously considered by the BLM, which would ensure the protection of the Red Desert while compensating companies with existing leases in the study area. The Department of the Interior should work with Wyoming BLM planners on consolidating federal ownership of lands within the study area, with particular attention given to acquiring the approximately 8,360 acres of state surface and mineral estate present in the area. The BLM should swap out the checkerboard in the JMHCAP to consolidate ownership through congressionally designated initiatives. This may be the last chance that we have to protect the Red Desert. Please ensure that this vision becomes reality.

**AIR QUALITY**

The air quality of the adjacent Wilderness Areas is suffering from the industrial development today. More development will exacerbate the air quality issue. The neighboring Jonah Field's intensified development, Green River Basin developments, power plant emissions, and trona mining and processing, combined with the proposed JMHCAP development will harm the Wind River Mountain's Class I airshed beyond repair. Particulate matter resulting from road dust, mining, industrial plant emissions, generator, compressor and vehicle exhaust will contribute to unachievable air quality standards. WWA urges the adoption of these aggressive management actions:

- New emission sources are not permitted until/unless state and federal regulatory agencies perform major and minor source increment consumption analyses for PSD I and PSD II areas.
- Best available control technology (BACT) is applied to existing "grandfathered" major emission sources located in Southwest Wyoming.
- Best available retrofit technology (BART) is applied to all emission sources in Southwest Wyoming causing or contributing to visibility reduction in pristine Class I areas in the Bridger and Fitzpatrick Wilderness areas.
- Emissions of hazardous air pollutants, such as benzene, from mineral and energy production facilities are reduced and, where possible, eliminated through application of new technologies and industrial processes.
- BLM shall enforce Standard Federal Oil and Gas Lease Term # 6 (Conduct of operations) to control operations in a manner that minimizes impacts to air resources.
- Particulate emissions (PM 10 and PM 2.5) are controlled by ensuring timely and complete reclamation of disturbed areas and adequate dust control measures.
- The planning area is re-designated PSD Class 1.

**WATER QUALITY**

Many water sources, the lifeblood of the Red Desert that trickle out in scattered streams, lakes, ponds, springs, seeps and other wetlands, in need of protective devices. Wilderness has innate

protective devices in its designation. Most if not all pollution of water is caused by human activities. But the future wilderness areas that are not currently protected need these assurances:

- Avoid industrial activity or surface disturbing activities in areas within 500 feet of wetlands and riparian areas.
- In the Killpecker Sand Dunes, there are special dunal ponds and wetlands'. Biological studies of the unique flora and fauna should be initiated by BLM to assure protection these dunal areas if threatened by overgrazing, off-road vehicle use, recreation or other activities.
- No permanent facilities and structures should be permitted in 100-year floodplains, wetlands, and riparian areas.
- Minerals mining and energy development activities would be prohibited in aquifer recharge areas.

**OFF-HIGHWAY VEHICLE (OHV) ABUSE**

WWA is very concerned about damage occurring on an escalating basis on our Wyoming wild lands from the unrestrained use of dirt bikes and other OHVs. The natural integrity of these BLM lands is being ruined as OHV abuse damages clean air and water, wildlife habitat, and the peace and tranquility treasured by many hikers and sportsmen. Quiet recreation is hard to come by in Wyoming – let alone the Red Desert. To get away from the sound of motors requires that large view sheds be put off-limits to motorized use. Historic trails, critical wildlife calving, leks, nesting and migration corridors, water seeps and sheds. Native American sacred sites, archeological sites, wilderness study area view sheds, rare native plant areas should be off-limits to motorized use. Walking in to areas is a proven, but not always fool-proof, method of protecting important resources. Also giving buffer zones to Wilderness Study Areas where motorized trespass occurs is highly recommended. Any management plan for BLM lands in Wyoming should reflect this concern and remedy it.

Off-road vehicle abuse has proven to be detrimental to wildlife, causing rapid soil erosion and changing the character of some wild areas to one more resembling a racetrack with "natural" obstacles than one of responsibly managed public lands. Man have seen, photographed and recorded severe damage to some of Wyoming's and our nation's most sensitive wildlife habitat areas. WWA supports the Agency's plan to develop a national strategy to ensure "environmentally responsible off highway vehicle use" on BLM lands. Such a management plan is long over-due, and must be accompanied by monitoring and enforcement. The BLM must develop a uniform policy that gives specific direction on how OHVs should be managed to protect resources and eliminate user conflicts. Reasonable restrictions on motorized recreation are needed. The BLM should adopt the following changes to the current OHV management framework:

- The BLM should adopt a "closed unless open" policy, to allow OHV use only on roads, trails, and routes designated and posted as "open." Cross-country OHV travel should be prohibited.

This signage method is the best way for motorists to learn and know where they are allowed to go. The open routes should be designated only after a study determines that the routes will not cause adverse environmental impacts. "Existing" routes should not automatically become open

routes under a new management plan. In many cases existing routes were developed by unauthorized dirt bike and other OHV users. These illegal routes scar the landscape, damaging the land, streams and creeks, invading many ecologically sensitive areas, and driving wildlife and non-motorized users away. Some motorized "play yards" such as those that have developed with little or no planning or management by the BLM may make management for recreation sense in certain marked areas. But they should not be allowed to continue and have new ones spring up across our wild lands. That is motorized abuse of our public lands.

- The BLM should follow the National Environmental Policy Act when designating OHV routes, constructing new OHV routes, upgrading existing routes for new or additional OHV use, and constructing or upgrading facilities for OHV use.

The BLM needs to stop building new OHV routes until those routes found to be compatible with a new, sound BLM OHV-use management plan are monitored and maintained. Damaging routes must be restored to non-motorized use. BLM should concentrate on monitoring, enforcement and restoration, not new construction.

- OHV use should be prohibited unless adequate monitoring and enforcement of the use and impacts are fully funded and implemented.

- OHV use should be prohibited in legislatively or administratively proposed wilderness areas, roadless areas and Wilderness Study Areas. The damage, noise and pollution from dirt bikes and other OHVs are ruining some of these precious areas of Wyoming and across the country.

- Motorized use should not be the "Preferred Use" for our public lands. Reasonable use with reasonable restrictions are needed.

**NATIVE AMERICAN SACRED SITES**

The BLM has not designed a suitable plan to honor and protect the Native American sacred sites within the JMHCAP. It is paramount that the BLM consult with Tribal traditional elders or other designated representatives of the Tribes prior to any activity that could negatively impact, or interfere with use of, a respected place. Native American traditional elders have identified a number of sites important for traditional, sacred or religious uses by Native peoples. Elders in this region have referred to these sites as "respected places." SDEIS at 4-89. Native American respected places (see Glossary at G-7) located within the planning area would be managed to achieve the highest level of protection -- comparable to nationally -- important historic trails and sites, such as South Pass and the Oregon, Pony Express, and Mormon Pioneer Trails, found within the planning area.

Respected Places should include the following protections:

- View sheds for pristine, undeveloped sites should be maintained as Class I;
- Areas should be protect from pipelines, utility lines and other linear features;
- No oil and gas leases should be let in the area of the sacred site and all existing leases should be bought out or swapped.
- Three mile buffer zone should be enforced from any industrial disturbance, exploration activity, or OHV access;

- No sacred site or religious area should be sold or traded and Federal ownership retained;
- Increased enforcement will be needed to ensure artifact poachers are deterred or prosecuted;
- Indian Gap Trail and viewshed should be added to National Historic Trails system.

**WILDLIFE**

The Jack Morrow Hills is such a unique area for wildlife habitat that it would be criminal if the BLM could not ensure the long-term survival of the Red Desert elk and pronghorn antelope herds and other wildlife. The loss of 22% of the JMH from the proposal in the preferred alternative to industrial development is unconscionable.

Over 350 different wildlife species are found within the planning area. The area provides "crucial habitat" for all three major game species, elk, antelope and mule deer. One of the great multiple uses and economic benefits of the JM Hills is hunting. Hunting and fishing is a significant contributor to Wyoming's economy to the tune of $1.1 billion and it is estimated that nearly $3.9 million is spent from these activities in southwest Wyoming. This is year after year forever – IF the resource is protected.

Approximately 187,000 acres of the study area are crucial winter or crucial yearlong range for elk, including the resident Steamboat Mountain elk herd (1000 and 2000 elk). The area also provides habitat to the largest migratory game herd in the lower 48 states - the 50,000 strong Sublette pronghorn antelope herd.

Seventeen raptor species inhabit the Jack Morrow Hills Study Area including ferruginous hawks, golden eagles, prairie falcons, Swainson's hawks, short-eared owls and burrowing owls. Additionally, numerous species of concern such as flannelmouth suckers, pygmy rabbits, Eastern short horned lizards, Great Basin gopher snakes, and Wortman's ground squirrels find shelter in the study area. Management guidelines should include:

- Fences on public lands would be removed, modified or reconstructed where they impede wildlife movement or constitute threats to viability objectives.
- New fence construction in crucial big game wildlife habitats and connectivity areas would only be considered if alternatives, such as herding and other controls, are not possible. Fence construction and reconstruction would be in accordance with Wyoming Game and Fish Department design standards.
- The management objective for wildlife habitat contained in the Citizens' Wildlife and Wildlands Alternative provides that fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native species in the planning area.
- A Habitat Management Plan would be prepared for the entire planning area to mitigate wildlife habitat losses. (JMH Alt. 2).
- The habitat management plan would include habitat expansion efforts, threatened and endangered species reintroduction, and population goals and objectives designed to achieve and maintain viable populations of native and desired non-native species.

- Suitable wildlife habitat and forage would be provided to support the Wyoming Game and Fish Department's Strategic Plan objectives.
- Big game, sensitive species and their habitat, threatened and endangered species, special status wildlife and fish species, water developments and predators would be managed in accordance with JMH Alternative 2, except that big game connectivity areas would also be considered "sensitive habitat" and managed accordingly.
- Permanent or high profile structures would be prohibited within 1-2 miles of active and historic raptor nests, depending on species (2-miles for ferruginous hawks); temporary disturbances associated with placement of facilities would be prohibited within 1-2 miles of active raptor nests; and disruptive activities would be seasonally restricted within 1-2 miles of occupied raptor nesting sites. Precise distance within this range would be determined on a case-by-case basis and would depend on the raptor species involved, natural topographic barriers, line of sight distances, population status, etc.

**SAGE BRUSH HABITAT**

The Jack Morrow Hills contains the only known occurrence of the basin big sagebrush/lemon scurfpea association in the world – very under-represented in the National Wilderness ecosystems. Both the species dependent on pristine sage brush habitat, the greater sage grouse and mountain plover have experienced precipitous declines in most of their range. They are both candidates for listing under the Endangered Species Act although they still enjoy fairly sizeable populations in the Red Desert. The area provides an oasis for other sage-brush obligates besides the sage grouse, including sage sparrows, sage thrashers and sage lizards.

In recognition of this extraordinary resource. Wildlife Habitat is added as a separate resource category (SDEIS at 2-2). Sage grouse and raptors would be managed in accordance with JMH Alternative 2, except that:

- Long-term or permanent above-ground surface occupancy would be prohibited within a 2-4 mile radius (Clait Braun studies) of sage grouse leks, or on nesting habitat and winter concentration areas.
- Seasonal limitations on disturbing and disruptive activities would apply within 2-4 miles of leks, and on nesting and concentration areas, and would be applied 24 hours daily.
- As determined by transportation planning, unnecessary roads would be obliterated and reclaimed to a natural, pre-disturbance condition.
- Previously disturbed areas and pipeline rights-of-way that have not been successfully reclaimed (i.e. to meet goals and standards in Appendix 9) are identified and scheduled for reclamation consistent with Appendix 9 standards.

**NATIVE PLANTS**

At least 14 rare, imperiled and plant species of concern have been identified in the study area, including the Nelson's milkvetch, the meadow pussytoes, the large-fruited bladderpod, Payson's beardtongue and alkali wild rye. All plant communities should be identified and the areas should be off-limits to surface disturbing activities.

**LIVESTOCK GRAZING**

The Wyoming Wilderness Association recognizes cultural and traditional use of livestock grazing on public lands where its use is noted as responsible and maintains the ecological grassland system. Grazing is allowed in designated Wilderness as a Special Provision in the National Wilderness Act "shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture." Livestock grazing would continue in the planning area as described in the BLM's Preferred Alternative. Where overgrazing has occurred, emphasis should be placed on restoring rangeland health and proper functioning condition of riparian areas. Upland and riparian vegetation would be managed to achieve desired plant community objectives.

**CONCLUSION**

The BLM can no longer ignore resource damage and user conflicts. The BLM has allowed energy resource developments, off-road vehicle use and grazing to occur in and around the Jack Morrow Hills area. As one of the few relatively undeveloped areas left in the Red Desert, the BLM needs to set the Jack Morrow Hill's 600,000 acres aside for refuge for wildlife, quiet recreation and to protect the fragile desert/high plains ecosystem. With over 90% of the Red Desert leased for energy development, the BLM needs to put forth a management plan that corrects this imbalanced use of the resource.

The Federal Land Planning Management Act's definition of multiple use expressly recognizes that the most 'judicious use' of land may involve the use of some land 'for less than all of the resources,' and that consideration must be given 'to the relative values of the resources and not necessarily the combination of uses that will give the greatest economic return...' 43 U.S.C. § 1702(c). Thus, foreclosing mineral exploration and development on even a sizeable tract of federal land does not violate the statutory definition of multiple use, and is not per se unreasonable." Memorandum from John Leshy, Solicitor for the Department of the Interior to Bruce Babbitt, Secretary of the Interior, December 22, 2000 (Commenting on the Jack Morrow Hills Coordinated Activity Plan DEIS). The BLM can and should withdraw the Jack Morrow Hills from any oil and gas or mining proposed activities.

The WWA commends the Wyoming BLM for promoting this initiative to provide some protection for the extremely valuable wildlife and recreation resources contained within the Jack Morrow Hills area, but the Plan does not go far enough in protecting these world class public lands. Please keep us informed as planning for the Jack Morrow Hills area, the Red Desert, and other BLM wildlands continues.

Sincerely,

Liz Howell

Liz Howell
Director
Wyoming Wilderness Association

-1-

To: BLM 307-352-0329
100,381 (fax)
re: the JMH
supplemental CAP

May 20, 2003

To Whom It May Concern:

I have wandered and rambled through much of the Jack Morrow Hills Study Area. And, although I have only lived in Wyoming for five years, I have spent several months in that hallowed ground — either leading expeditions, recreating with friends or just finding solitude on my own. Whether in the caves of the Honeycombs, or on top of the gateway to the Great Divide Basin — Oregon Buttes, or blissfully getting lost in the pinnacles or wandering through the mysterious landscape of the Sands and Steamboat Mountain, the Jack Morrow Hills Study Area is, as Secretary Babbitt once declared, a "world class landscape." Indeed, the desert deserves to be treated as such. This plan fails in that regard.

Although I realize that the Rock Springs BLM office has worked hard to develop a "middle

of the ground" management plan, I believe that the agency's top brass has done a great disservice to the American people and all of the folks who love this part of the Red Desert. With 94% of Wyoming BLM lands currently open to mineral leasing and development, between 10,000 and 20,000 oil and gas wells destined for southwestern Wyoming by 2010 and over 50,000 coal-bed methane wells slated for the energy-sacrificed Powder River Basin in the same time-frame, I am vehemently opposed to the Jack Morrow Hills Supplemental draft plan and see very little "balance" in it at all. All of the BLM's alternatives are skewed towards oil and gas development, and I fail to see how the agency has complied with the National Environmental Protection Act with this incredibly narrow range of alternatives. How can BLM even dare call one

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of its alternatives a "preservation alternative" when that alternative calls for the initial development of 160 oil and gas wells in the area?

Frankly, I am disappointed with BLM's lack of vision and lack of political courage. And I am disgusted with the Federal Government's seemingly tireless desire to road, rig and rape some of the last best wild places left in our country. Wyoming citizens have been trying to protect this part of the Red Desert (or "Great American Desert", perhaps a more appropriate moniker - as many of the pioneers called it) since 1898 when Dr. Frank Dunham and other Wyoming sportsmen attempted to designate it as a Winter Game Preserve.

Indeed, as I watched

a northern goshawk flap through the mist near Split Rock Canyon on Steamboat Mountain a few days ago, listened to warblers singing persistently in the aspen groves below and looked out over this vast, beautiful, unforgiving and bountiful land, I could not help but shudder a little at the thought of the encroaching oil and gas development that BLM is sanctioning for the area. At what price! With what loss! With what cost!?

As I hiked through the sage and finally "summited" Steamboat Mountain "proper" - I could only wryly smile as I looked towards Table Mountain and the Sands. Would that area be sacrificed first? Or would it be some of the other areas around Steamboat-

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the headwaters area of Jack Morrow Creek, Blind Valley or Monument Ridge or Box Canyon that would have some of the first wells sunk in it? The dry coal-bed methane wells / motionless pump jacks south of Steamboat along the county road epitomize the greed and stupidity of many of the companies drilling in the area. While I am not opposed to all oil and gas development (how could I be? I drive a car.) I believe that some areas should just be left alone, places like the Jack Morrow Hills. What does it take to protect this area? An insurrection? (Peaceful, of course, in this day and age.)

With BLM's prefered alternative, I believe that the agency is setting in motion a domino development effect that will impact Americans'

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quality of life for decades (if not centuries). Our recreational and hunting opportunities will be severely impacted by this plan. And I think that the "205 well guideline" and "50 projected Cbm wells (exploratory)" figures are guidelines as transparent and ephemeral as spring mist over Continental Peak. Please! How naive and stupid do you think the American people are?! If industry hits pay-dirt, what will stop them from further exploiting this land and from BLM allowing them to do so? Looking at the plan, it seems that industry believes that several hundred oil and gas wells will potentially be developed under ~~the~~ its auspices ~~of this plan~~. Indeed, during the last Jack Morrow Plan, EPA surmised that at least 800 Coalbed methane wells would be

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developed in the study area. Knowing BLM's loose relationship with industry, I have little faith that the "255" well guideline will stick. While, to a limited degree, I commend BLM for its so-called "adaptive management" and "phased development" scenarios for the area, I think that the agency should just trade or buy out the existing oil and gas leases in the area and be done with it. Why should citizens even have an inkling of faith in this plan when BLM ~~decides~~ states that "the purpose and need for the Adaptive Management Strategy ~~is~~... based on the limited exploration and development that has taken place to date, it is impossible to predict how future development will proceed... All agree that there is a great deal of uncertainty about future development. Because of

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uncertainty, a number of assumptions were necessary to predict the impacts associated with future development. Those assumptions may or may not be correct." SDEIS (vol. 2 p. 17-1)

Certainly we need more monitoring - monitoring of the impacts of oil and gas development, utility lines, roads, and two-tracks (now sprouting up everywhere - from Steamboat to the Honeycombs - by a few, but irresponsible ATV users - illegally pushing into WSAs and roadless areas and crucial winter range for elk, deer and antelope. Enough is enough! One desert rat friend of mine (echoed by others) says he can barely recognized the desert due to the spider-web of roads and illegal two-tracks that now have spread themselves across the region. Wyoming - like no place on earth?! Guess again.

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If the BLM wants to do the right thing it should either fully endorse the Citizens' Wildlife and Wildlands Alternative, which I fully ~~support~~ endorse, or at the very least, push forward with a modified version of Alternative 4, allowing for the trade or buy out of oil and gas leases in the area. Still, the Citizens' Alternative is the best solution and that is the alternative that I back.

(On a side-note, how can the agency even be so arrogant to give American Indian holy sites a mere 100 foot buffer zone from development, when it affords non-Indian respected places such as the Crookston Ranch and the Oregon Trail so much- (yet not enough) protections? It is hardly for me to speak of such things, but the disparity

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protection of
between Indian and non-Indian sites seems insulting.

I could go on about the importance of open space and the values of this high elevation desert, the intangible benefits of being part of this wild land and appreciating this rare and wondrous part of America, but I have already wasted enough ink and enough paper on this individual comment. It is already painfully apparent to me and countless citizens that the Federal Government doesn't give a damn amount public comment - judging from the drafting of this plan, after a huge outcry against development in this area three years ago, and the callousness which the Federal Government is now treating public comments on this resource issue

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and so many others. Will the BLM now listen after a series of hearings in Wyoming where so many have stood up against development in this area and so many thousands of comments have endorsed the Citizens' Alternative? I wonder. Even if BLM went ahead with its euphemistic "adaptive management" and grandiose "phased development" plans, I doubt that the agency ever has the money to back such monitoring when there is barely enough in the coffers to cover monitoring of wildlife habitat, range conditions and illegal ATV use.

In addition to backing the Citizens' Wildlife and Wildlands Alternative, I believe that Steamboat Mountain - approximately 5000 acres - should be designated as a Wilderness Study Area. As

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anyone can see, Steamboat has Wilderness characteristics and enough natural, scenic, cultural and historic values to back such a designation. (Please see the enclosed materials regarding a potential Steamboat Mountain WSA.) Except for approximately four miles of roads across the top of Steamboat which can easily be closed, I believe that the majority of roads/two-tracks and campgrounds around the mountain could and should stay open. (Although some of the two-track put in illegally above Jack Morrow Creek are a travesty and should be closed.)

I will include more detailed comments in my attachment (by mail) re: Steamboat. In the meantime, I ask that BLM do the right thing and endorse the Citizens' Alternative. Thank you!

Mac Blewer
P.O. 327
Lander, WY 82520

To BLM re: the JMH CAP

May 23, 2003

We the undersigned full endorse the Citizens' Alternative:

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Thank you.

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100,383

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May 23, 2003

Jack Morrow Hills CAP Team Leader
Bureau of Land Management
Rock Springs Field Office
280 Highway 191 North
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Re: Public Comments on the Jack Morrow Hills Coordinated Activity Plan (JMHCAP) Supplemental Draft EIS

Ladies and Gentlemen:

EnCana Oil & Gas (USA) Inc. (EnCana) is an independent oil and gas company with a regional office located in Denver, Colorado. EnCana is actively engaged in exploration and production operations in the Greater Green River Basin and has numerous leases affected by the JMHCAP. EnCana is responding to the request for public comments regarding this issue and hereby incorporates by reference all comments submitted by other oil and gas operators and industry groups such as Petroleum Association of Wyoming, IPAMS, RMOGA, COGA, etc.

EnCana appreciates the opportunity to respond to BLM's JMHCAP Supplemental Draft EIS, issued in April 2003. The comments immediately following are general and made in respect to the process and impacts of BLM's analysis of alternatives regarding oil and gas development in the JMH area. These are followed by specific comments with regard to each alternative. Based on these comments, EnCana has included recommendations or suggested revisions to the document for BLM's consideration.

The Green River Resource Management Plan (GRRMP) was completed in 1997 after more than five years of analysis. That Plan and Record of Decision (ROD) left undecided the land management planning for a core area of 80,000 acres in the area known as the Jack Morrow Hills. BLM has now expanded this core area to the more than 600,000 acres and analyzed the impacts of five alternatives in the Jack Morrow Hills Coordinated Activity Plan Supplemental Draft Environmental Impact Statement (JMHCAP DEIS). After several more years of analysis, BLM is still trying to arrive at land management decisions for the Jack Morrow Hills area. As BLM has become mired in this decade-long process, operators with federal minerals leases in the area have been unfairly denied access to their leaseholds, and unleased federal minerals have been withheld from future leasing actions.

BLM must remember that this document is a Coordinated Activity Plan, and will result in decisions that will guide BLM in how it manages these lands for all activities, including

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recreation, off-highway vehicle use, among others, and not just oil and gas activities. The ROD for the JMHCAP will amend the GRRMP, and will serve as the over-arching document for land-use decisions. However, for any proposed major federal action, including oil and gas activities, a new NEPA process will be initiated. A future proposal for oil and gas development in the JMH project area will still trigger an Environmental Assessment (EA) or a new Environmental Impact Statement (EIS). That new analysis, specific to the site of the proposed activities, will allow BLM to enact appropriate mitigation at that time. BLM has erred in the JMHCAP DEIS analysis in that it has tried to foresee every potential future activity and identify mitigation in this document.

**RECOMMENDATION:** BLM should re-focus its attention on the type of decisions it should be making as a result of this analysis and leave more site-specific decisions for when proposals are made that may trigger additional analysis.

Throughout the document, BLM refers to the concept of an "adaptive management process" being implemented under the Preferred Alternative. EnCana does not support the adaptive management process that has been outlined by BLM because it is misapplied under the principles of this type of process. BLM's process would result in mitigation and compliance requirements that are to be determined at some unspecified later time while leasing and development decisions continue to be delayed. BLM's process does not address the need for funding and manpower requirements. The implementation of any adaptive management process is unacceptable until BLM can demonstrate to the public that it actually has the resources to follow through in its commitment to manage with this approach.

**RECOMMENDATION:** EnCana believes that an adaptive management process applied at the project-specific level could encourage innovation and technological advances that would result in more effective mitigation based on actual, documented impacts. EnCana would fully support a properly applied process that was underlain by performance-based standards rather than prescriptive mitigation devised prior to gathering data regarding the impacts of oil and gas development on other resources in the area of a project. EnCana recommends that BLM reevaluate its recommended adaptive management process and recognize that it thwarts the free-market system by continuing to delay land management decisions unnecessarily. BLM must identify and secure the necessary resources, including personnel, to manage an adaptive management process.

Increased recreation activities in the JMH area, such as hunting, camping, backpacking, hiking, horse-packing, OHV use, mountain biking, sightseeing at historic trails and places, horn hunting, wild horse viewing, photography, and many more, may have a negative impact on all of the resources BLM believes oil and gas activity will impact. BLM must include analysis and mitigation for the management of all of these activities on public lands within the JMH project area. For instance, BLM does not subject typical OHV use to the same rules, regulations, and mitigation measures that it imposes on geophysical activities. It is unreasonable to impose severely restrictive limitations on a permitted use and ignore the impacts of other uses and users, simply because they don't require a specific, 'per occurrence' approval from BLM. To ignore all of these potential users and uses, their increasing

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frequency, and the impacts that result from them is to miss an opportunity in this CAP to properly manage public lands.

**RECOMMENDATION:**
BLM must adequately analyze the impacts of increased recreation activities on surface lands, plants, soils, water quality, air quality, wildlife and wild horses in the area and provide management prescriptions that will balance the multiple use of the JMH area.

The area designated as the Jack Morrow Hills planning area is extremely prospective for natural gas. Oil and gas exploration and development activity has taken place in the area since the 1920's. The best comprehensive evaluation of the area was performed by the Wyoming State Geological Survey (WSGS) and published as Open File Report 2002-1 in March of 2002 (Cook, ET al, 2002). In that report, the WSGS estimated an unrisked, in-place gas resource of 430 trillion cubic feet of gas (TCF). As further evidence of the gas potential of the JMH area, nearly 50% of the lands available for lease are currently leased (Map 10, JMH DEIS). One hundred sixty two of those leases are currently suspended awaiting the outcome of this process so that operators may propose oil and gas activities on their leaseholds. Fifty-two leases are held by production from the approximately 45 producing wells in the JMHCAP area. Industry has drilled over one hundred and fifty wells in the area, and those wells have produced approximately 86 BCF of gas and 82M barrels of oil. There are four producing Federal Units and three exploratory Federal units in the JMH area of analysis encompassing approximately 64,000 acres. The JMH area is also popular with recreational users, hunters, OHV users, among others, and must be managed properly by BLM for all of the legitimate uses. Obviously, BLM cannot properly manage these lands for the well being of the public and remain within its multiple-use mandates unless proper consideration is given to oil and gas activity. A balance between protection of surface resources and oil and gas activity/economic growth has been demonstrated. BLM cannot manage the area for other resources at the expense of oil and gas development anymore than BLM can manage the lands at the expense of other resources with special dispensation for oil and gas.

**Recommendation:** EnCana is satisfied that the range of alternatives developed by BLM and analyzed in the JMHCAP DEIS provides for a broad range of issues analysis as required by the CEQ regulations. However, EnCana believes that the No Action Alternative, of the five presented and analyzed in the JMHCAP DEIS, best achieves this balance, and should be BLM's Preferred Alternative. BLM does not present any compelling evidence or data to lead the reader to a conclusion that the current management decisions, up to the time of the termination of all oil and gas activity, have resulted in any undue or irretrievable impacts to other resources. In fact, the wildlife appears to be flourishing based on the data presented in the JMHCAP EIS. The other alternatives are seemingly based on undocumented concerns for imaginary impacts of oil and gas development.

The following discussion outlines EnCana's view of each proposed Alternative and provides the following comments on each of the five alternatives considered in the JMH DEIS.

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**No Action Alternative**

This is the current management plan for the area. Under the No Action Alternative, suspended leases would be reinstated and new leasing would be allowed outside the core area. Development would be allowed on existing leases in the core area and stipulations limiting surface disturbance would be a part of the provisions on new leases. If development activities are proposed anywhere in the JMHCAP area of analysis, the decisions to manage lands would be further supplemented by site-specific analysis and decisions based on that analysis.

This plan already provides for protection of big game, sage grouse and raptors species by prohibiting or limiting surface disturbing activity from November 15 to July 31. The populations of these species that inhabit the JMH analysis area have shown no documented adverse effects as the result of historic oil and gas activity in the area. Under this Alternative, the Steamboat Elk Herd has increased to approximately 2,000 elk, even though the current Wyoming Game and Fish Department (WGFD) herd objective has recently been raised to 1,200 from 500 elk. Wild horse populations have apparently seen similar increases. BLM presents no compelling evidence in the document to change itsmanagement approach.

Under the current plan, the BLM has considerable authority to regulate activities and respond in real time to any potential impacts to fauna and flora in the operations area. BLM seasonal restrictions apply to 179,340 acres to protect wildlife and leave just over 100 days of annual operations for oil and gas companies should all species to be present in the area of proposed activity. Under the current plan, the core area would remain closed to new leasing and the Wilderness Study Areas (WSA) would also remain closed. This results in an area of approximately 81,040 acres that would be unavailable for any type of oil and gas activity. Another 21,340 acres would contain No Surface Occupancy stipulations. Conditional Surface Use stipulations would apply to another 178,130 acres. Clearly these restrictions, when coupled with protection provided by additional mitigation from new analyses, have provided adequate protection for other resources.

**RECOMMENDATION:** EnCana believes this Alternative is appropriate and maintains a sufficient level of protection for the environmental assets of the JMH area. EnCana recommends that the BLM select the No Action Alternative as the Agency's Preferred Alternative in the FEIS.

**Alternative 1**

This option would provide expanded opportunities to use and develop the area and would de-emphasize environmental protection. In Alternative 1, BLM has not set aside any areas unavailable for oil and gas leasing, reduced the No Surface Occupancy acreage total to 1,420 acres, limited Conditional Surface Use to only 67,330 acres and seasonal limitations apply only to 45,220 acres. EnCana believes reducing stipulations and restrictions to these minimal levels may result in unnecessary impacts to important resources by oil and gas activities.

**RECOMMENDATION:** EnCana makes every effort to be a good corporate citizen, does not believe that unfettered access to public lands by any user of public lands is appropriate, and



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cannot support this alternative. EnCana applauds BLM's effort to analyze a full range of reasonable alternatives, but recommends that BLM not select this Alternative.

**Alternative 2**

This option is largely the opposite of Alternative 1 in that it severely reduces the opportunity for oil and gas activities in the area and focuses primarily on improving the wildlife habitat in the area. Alternative 2 puts 364,150 acres off limits to leasing. EnCana believes BLM lacks the necessary data to demonstrate the need to reduce opportunities and restrict oil and gas to these minimal levels.

**RECOMMENDATION:** EnCana does not believe that severely limiting access to public lands to any user is appropriate without adequate data that clearly shows that unavoidable and unnecessary significant impacts would occur by allowing that use. EnCana does not support this alternative. Again, EnCana applauds BLM's effort to analyze a full range of reasonable alternatives, but recommends that BLM not select this Alternative, as this option has too severe of an adverse impact on oil and gas operators.

**Alternative 3**

On the surface, the BLM's Alternative 3 appears reasonable in that opportunities to use and develop the area would be allowed while ensuring protection. However, this alternative contains serious flaws in that it places authority with the BLM to tell companies when and to what extent activities, such as developing a field, would be allowed. The Alternative additionally refers to systematic timing on when leases would be offered and systematic opportunities to drill.

A staged leasing and development approach simply is not a reasonable management prescription for the oil and gas industry. Oil and gas companies determine the timing of leasing, drilling and field development based on commodity prices and availability of budget monies, not when the BLM is ready to allow activity. This approach potentially prevents an operator from securing a viable lease block prior to development, a common and necessary industry practice. Staged or sequential development raises serious issues and concerns with the protection of correlative rights for adjoining federal leases held by different operators.

**RECOMMENDATION:** This Alternative is simply inconsistent with how petroleum business is conducted, grants authority to BLM to potentially illegally control the location and pace of development and would simply fail. EnCana opposes this Alternative and recommends BLM reject this Alternative.

**Alternative 4 (DEIS Preferred Alternative):**

This Alternative amounts to an unfounded mandate that results in the JMH area becoming an area to be managed as a research project with no forced timing on when any conclusions would be reached. BLM's strategy forces a process for gathering data, developing an implementation strategy, a monitoring program and a 12-point evaluation procedure, but does

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not identify the need for or create the funding or human resources to accomplish any of this. The Adaptive Management Process would indefinitely close all activities in as much as two thirds of the project area while the evaluation program proceeds. The process develops a long list of triggers for closure of activities and essentially subjects companies to every possible permutation of conditions, which must be assessed before activity would be allowed. This process is unmanageable.

BLM simply must recognize that *if* any oil and gas development proposals are made within the JMH project area, an ensuing NEPA analysis will address all of the same issues in a much more comprehensive and thorough manner. It is not necessary for BLM to lay out a process in this Coordinated Activity Plan when that could be much more reasonably applied in a project-specific setting, in somewhat of a different form.

Under the Preferred Alternative, BLM mandates that the viewshed protection measure for National Historic Trails would be maintained at approximately three miles on each side of the center of the Trail. Additionally, BLM states that intrusive activities could be allowed provided the results of visual analysis indicates no adverse effect to the viewshed. The current stipulation in the GRRMP for the protection of trails and their viewsheds calls for an avoidance area of 1/4 mile on either side of the trail, or the visual horizon, whichever is less. BLM must not increase the GRRMP stipulation for trail management until the Trail Management Plan is completed, presented for public review and comment, and is amended to, or amends the GRRMP.

**RECOMMENDATION:** EnCana strongly opposes this Alternative. EnCana recommends that a much more reasonable approach for an Adaptive Management Process is to base it on performance-based requirements at the time a project-specific proposal is analyzed. For instance an area-wide population objective for sage grouse could be set, monitoring implemented to assess area-wide population trends, and prescribe new or additional mitigation if the objective is shown to be at risk. BLM must not change trail management decisions without undergoing the proper analysis and engaging the public in a properly conducted process.

We thank you for the opportunity to be heard in this process and hope that our comments will be given proper consideration.

Very Truly Yours,

Jim Lister
Group Leader, Green River Basin
EnCana Oil & Gas (USA) Inc.

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## References

Cook, Lance; De Bruin, Rodney H.; Boyd, Cynthia S. and Jones, Richard W., 2002, Oil and Gas Resource Assessment of the Jack Morrow Hills and Surrounding Areas, Southwestern Wyoming: Wyoming State Geological Survey Open File Report 2002-1, 41 p.

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ANADARKO PETROLEUM CORPORATION

100,384

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Anadarko

May 23, 2003

Ms. Renee Dana
Team Leader
Rock Springs Field Office
Bureau of Land Management
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RE: Supplemental Draft Environmental Impact Statement for the Jack Morrow Hills Coordinated Activity Plan / Draft Green River Resource Management Plan Amendment (DEIS)

Dear Ms. Dana:

Anadarko Petroleum Corporation (APC) appreciates the opportunity to respond with comment on the Supplemental Draft Environmental Impact Statement for the Jack Morrow Hills Coordinated Activity Plan/Draft Green River Resource Management Plan Amendment. APC has interests in the proposed analysis area that may be affected by the outcome of this planning effort. Following are the issues and comments that we have identified. APC respectfully requests that these issues and concerns be fully addressed in the FEIS.

**Management Objectives**

The Supplemental DEIS is biased toward management of certain resources to the detriment of public use of the area for recreation, mineral extraction and energy development. For instance, Section 2.1.2, entitled "Management Objectives" states the following goals for various resource categories;

Land and Water Resources – maintain or improve
Heritage Resources - protect
Travel-Access-Reality – accommodate
Recreation Resources – accommodate
Mineral and Alternative Energy Resources – provide opportunity
Visual Resources – maintain or improve
Special Management Area – protect
Air Resources – maintain and where possible, enhance

APC agrees with the need to protect and even improve resource conditions when opportunities arise, however, BLM must be equally attentive to the needs of our nation for energy resources and recreational needs. By merely "*accommodating*" the need for

public access and "*providing opportunities*" for mineral extraction/energy development, the proposed goals fall short of that mark. APC proposes that BLM's management goals for the JMH planning area should be to ensure the area is managed in a manner that encourages exploration for mineral extraction while protecting other resource values. Regrettably, the preferred alternative falls short of this goal.

**Proposed Adaptive Environmental Management Strategy**

APC is supportive of BLM efforts to secure access to the oil and gas resources of the JMH CAP planning area; however, we oppose staged leasing, timed development and later-to-be-determined mitigation and implementation via the Proposed Adaptive Management Strategy (Strategy). Overall, APC believes that the Strategy's inherent shortcomings will quickly become more of a hindrance to resource planning than an asset. APC considers the Strategy to be impractical, unsustainable and unreasonable. Again, basing future leasing and development decisions on the Strategy is not supported by APC and we do not believe that the Strategy can be realistically implemented. As proposed, the Strategy introduces uncertainty and added risk to oil and gas development in the area. As currently drafted, the EIS does not identify and discuss the barriers to successful implementation of the Strategy. These must be addressed to fully and fairly assess the potential impacts of the Strategy. The following is a discussion of the issues APC believes must be addressed in the FEIS.

**Using the Strategy to potentially hold a lease in suspension indefinitely (staged leasing) may exceed BLM's authority.**

APC agrees with BLM that it has authority to suspend leases in certain situations or to consider new suspensions as existing suspensions expire; however, that authority cannot be extended to indefinitely suspend leases awaiting the Strategy's unknown signal that development can now occur. The Rock Spring RMP suspended leases in the JMH planning area until such time that the JMH CAP was approved. APC believes that once the JMH CAP ROD is signed, BLM can no longer hold those leases in suspension. Any continued, indefinite suspension of the leases may raise a takings claim, and the potential impact of such claims should be analyzed. The leases were issued by BLM under the land planning decisions in effect at the time and therefore cannot be indefinitely deferred with a new land planning decision.[1] Once the JMH CAP ROD is issued, BLM's management of surface uses on that lease must be in accordance with 43 CFR 3101.1-2.

[1] In the Powder River Oil and Gas FEIS a staged or phased development alternative was eliminated in part for existing leases because "each lessee has an investment-backed expectation that its APDs will be considered in a timely manner and approved absent unacceptable site-specific impacts (see the Supreme Court decision in *Mobil Oil Exploration and Producing Southeast Inc. v. United States*, 530 U.S. 604, 620 [2000] which found a breach of contract when the Minerals Management Service, pursuant to a later adopted statute, would not review and make timely decisions on development plans per the regulatory scheme in place at the time of lease issuance)." Page 2-68.

**Successful implementation of the Strategy is dependent upon predictable and sustainable funding.**

The proposed Strategy is impractical in that assurances that the program will be funded in a manner that will ensure its success do not exist. First, potential monitoring costs of the Strategy should be disclosed to permit the public and BLM to evaluate the potential financial impacts of this alternative relative to the other alternatives. BLM should also include in the analysis a discussion of the potential impacts should funding not be available to BLM to carry out the monitoring contemplated by the Strategy. Further, the Strategy, if adopted, should be revised to provide a mechanism for release of the lands within the planning area for development should the monitoring efforts fail.

Because of the vagaries of federal funding, BLM should, at a minimum, have a workable option available to it in the event BLM is unable to secure the funding necessary to implement the Strategy.

**Establishment of scientifically valid baseline conditions remains uncertain.**

Employment of "resource indicators" is an impractical proposition for wildlife monitoring in that it is uncertain when and if sufficient and scientifically valid baseline information will be available. In the absence of such information, development and leasing within parts of the JMH would be indefinitely delayed as future decisions regarding development of oil and gas in parts of the JMH planning area are dependent upon the measurement of change from the baseline. Therefore, it is imperative that baseline conditions be measured accurately. To be valid, the scientific community must agree on the baseline conditions. It does not seem likely that such an agreement will be forthcoming in the near future, thereby jeopardizing the underlying premise for the Strategy. An example of the lack of adequate baseline information for wildlife can be found in the Green River RMP.[2]

APC believes that establishment of scientifically valid and agreed upon baseline conditions will be a daunting and expensive multiyear task thereby initiating delays in implementation of future JMH CAP management decisions. BLM cannot simply elect to state that conditions as they exist at the time the ROD is signed represent baseline conditions. Analysis of valid data, that may or may not exist, over a period of time is necessary to have statistically valid information on which to base the Strategy.

APC is also concerned that the proposed Strategy will establish a process whereby future leasing and development decisions may not end with simply acquiring good science. For instance, what mechanism will BLM employ to prevent interpretation of data by the experts from degenerating into endless arguments? Indeed, even in light of the concerns for collecting valid scientific data, convincing others that the science warrants changes in

[2] "Current population figures are derived from current computer population models which may or may not have good statistical confidence depending on the quality and quantity of information fed into the program." Green River RMP, Page 347.

management may be more time consuming, challenging and be subject to further political influence than it was to obtain the data.

Under these conditions it appears that there will be no end game for the oil and gas industry to have enough certainty that a large enough block of land will be made available for leasing to warrant investment in exploration projects. The proposed Strategy is akin to a race where there is no finish line. The Strategy will define the resource indicators that are to be monitored but there are no fixed values for determining when adequate proof has been presented to open additional lands to exploration, leasing or development. APC believes that it is unlikely that the oil and gas industry will make investments under such a regime.

**Strategy manages JMH planning area as if it were biologic island.**

The Strategy's premise is that by monitoring changes in wildlife "resource indicators" within the JMH planning area land managers will be able to determine positive or negative effects of oil and gas exploration and development. Restricting the evaluation of changes in wildlife resource indicators to within the JMH planning area ignores the realities of natural systems. Treating wildlife populations as if they were confined to the JMH planning area and never subject to land management or other influences occurring outside the area is unreasonable. How does BLM propose to monitor and account for outside influences on parameters associated with wildlife resource indicators? Influences such as land management practices (BLM, FS and private lands) outside the JMH planning area, drought, migration of big game outside planning area, etc. Taking these into consideration will require additional monitoring. Again, BLM should address the long term funding for costs of additional monitoring strategies occurring outside the JMH planning area in order to fully evaluate the potential impacts of the option.

**Proposed Strategy lacks additional critical information upon which meaningful analysis can occur.**

Success of the Strategy is predicated on answers to, as of yet, unanswered questions. BLM anticipates that many of these answers will only be available after the record of decision is signed.[3] For instance, as previously indicated what constitutes a significant change in a resource condition? How will conflicts in monitoring information be resolved (elk populations are rising but elk distribution has significantly changed)? Are determinations for desired road densities to be equally based on wildlife habitat needs and soils? How will BLM ensure adequate monitoring of environmental factors outside of BLM's control? Will BLM accept studies/monitoring data from other areas that can be extrapolated to the JMH planning area (e.g. BLM/UW Sage-Grouse/Oil & Gas Interaction Pinedale Study)? With the lack of information presented in the Appendix 17,

[3] "Additional refinement of the monitoring plan will occur after public review of the supplemental draft environmental impact statement (EIS) and the final EIS and completing the record of decision for the JMH CAP"

uncertainty as to the eventual development of the oil and gas resources is further aggravated.

**Will the Strategy result in an ongoing need for revisions or amendments to the RMP?**

BLM questions in Appendix 17 if "an area of 2 miles around nesting sage grouse prevent abandonment in all cases". Does this question intimate that industry may be faced with dynamic stipulations and mitigating measures? In terms of stipulations or mitigation measures approved via either the JMH CAP ROD or the Green River RMP ROD, what happens when information shows that standard to be wrong? Does BLM anticipate that should monitoring information indicate if a change in a mitigation measure or stipulation is needed that it will amend or revise the JMH CAP or RMP?

**BLM must comply FLPMA §202(e)(3) regarding management decisions that exclude a major use.**

Under §202(e)(3) BLM is required to notify Congress of any management decision that excludes or totally eliminates major uses, for two or more years, with respect to a tract of land of more than 100,000 acres. It is unclear from the Strategy, as currently delineated, whether the Strategy will meet this threshold. Additionally, it is equally difficult to determine the total number of acres where leasing decisions have been or may be indefinitely deferred. Unless BLM can definitively show that leasing decisions as affected by the adaptive management strategy are less than the 100,000 acre limit or if the limit is exceeded that leasing will occur within a two year period, is reporting to Congress required?

**BLM anticipates unnecessary/undue environmental change as a result of the proposed alternative.**

An identified goal of the proposed Strategy is the need to "provide a timely response to unnecessary/undue environmental change". This statement is contradictory to BLM's long standing practice of identifying and imposing environmental mitigating measures such that the agency complies with the intent of FLPMA §302(b) in "preventing unnecessary and undue degradation of the lands". BLM has always analyzed each action on its own merit, applied mitigation tailored to the specific land, resources and proposed action to ensure that no "unnecessary and undue" impacts occur. For whatever reason, BLM now claims that oil and gas interactions with the environment are of such an uncertain nature[4] that mitigation measures can no longer be relied upon to prevent

[4] "There is also equal uncertainty regarding how the environment will react to future development in the planning area. For instance, will an area of 2 miles around nesting Greater Sage-Grouse prevent nest abandonment in all cases? How will big game respond to new development? Will a combination of actions or activities affect wildlife habitat use and if so, to what extent"? Supplemental Draft EIS JMH CAP – Page A17-1.

unacceptable environmental impacts. Although APC agrees that there will always be some uncertainty associated with assessing potential impacts, we also believe that the scientific literature developed over the years provides a sound basis for assessing the potential impact. Therefore, we believe BLM's discussion at A17-1 is unfounded and should be removed.

**Draft documents should not be utilized in the planning process.**

BLM states that "draft guidance is not used in land use plans".[5] APC would like to bring to BLM's attention that Appendix 17 Table A17-1 references the "Draft Interim Management Guidelines for the Greater Sage-Grouse and Sagebrush Steppe Ecosystem for BLM Administered Lands in Wyoming". As with draft planning guidance documents, the proper time to incorporate them in a land use plan is after they are finalized.

**The Strategy fails to meet criteria for selection of preferred alternative.**

A criterion for selecting the preferred alternative included an analysis of whether the preferred alternative "retains reasonable accessibility of public lands for purposes of public access, public land use, and resource development."[6] For the above stated reasons regarding the Strategy, APC believes that the preferred alternative cannot meet this test. The preferred alternative represents an unprecedented assertion regarding what BLM believes to a significant uncertainty regarding the environment and its interaction with oil and gas development. It is indeed a shortcoming of the preferred alternative as well as ironic that by implementing the proposed adaptive management strategy BLM will actually increase the uncertainty and risk involved with developing oil and gas resources on federal lands in and around the JMH CAP.

**Conclusion on Adaptive Environmental Management.**

APC supports the use of adaptive management and monitoring with respect to developing reasonable "performance based" standards rather than prescriptive mitigation measures. A sustainable monitoring program will provide information from which changing conditions can be dealt with. Performance based standards will encourage innovation and adoption of new technological advancements. However, APC can not support an alternative that encompasses staged leasing and development including the potential for indefinite suspension of leases and is based on a flawed adaptive environmental strategy.

**Biologic Opinion**

Appendix 3 states that water depletion in the Colorado River System is likely to jeopardize existing threatened and endangered species inhabiting that habitat. The

[5] Supplemental Draft EIS JMH CAP Page A1-1.
[6] Supplemental Draft EIS JMH CAP – Page A1-6.

assumptions for water depletions due to oil and gas activities are flawed. Although BLM predicts that all water utilized for drilling would be derived from sources that contribute to river flows, this is not necessarily the case. It has not been scientifically determined that all potential source aquifers are connected to Colorado River System flows. The EIS or the biologic assessment should note that BLM can mitigate the impacts by assuring that drilling water is not derived from contributing flows. Such a mitigation measure would reduce to insignificance or eliminate potential impacts to threatened and endangered species from water depletion.

**Geophysical Restrictions**

One of the first stages of oil and gas exploration is obtaining geophysical information in areas of interest. Often this exploration involves covering large tracts of land with geophysical exploration in order that regional geology can be interpreted. On a smaller scale, geophysical data covering large areas is also essential to the geophysicist in order to determine the geologic structures of an area that may be credible oil and gas targets. Likewise, the same information is equally important in deciding where not to drill.

The preferred alternative would apply the same mitigation measures and limitations applicable to ROWs[7] to geophysical operations even though geophysical operations are vastly different, involve di-minimis surface disturbance, are temporary in nature and are a permitted activity. Following the restrictions placed on ROWs, geophysical activities would be limited to coincide with existing roads, trails or other ROWs.[8,9]

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[7] "Geophysical activities would be allowed throughout the planning area subject to appropriate mitigation and limitations applied to ROWs (Map 49). Activities would not be allowed within one-half mile of the pinnacles geologic feature and would be allowed in sensitive resource areas only if they can be performed with acceptable mitigation of impacts." Supplemental Draft EIS JMH CAP Page 4-110.

8 "To the extent possible, utility and transportation ROWs would be located to coincide with existing roads, trails, and other ROWs or easement concentration areas, where they would not create safety hazards or conflict with other resources and uses. The extent of ROW exclusion and avoidance areas is shown on Map 49. VRM classifications would also affect the location of new ROWs, as projects would need to be designed to meet the objectives of the established visual classification for the site and along the route. The limitations of keeping linear ROWs coordinated with existing roads, trails, and easements as well as VRM classifications, could affect specific placement of ROWs and access to future development locations. Possible effects to the location of ROWs could result from logistical difficulties in utilizing an existing road, trail, other ROW, and/or easement of unfavorable geography, proximity, or VRM classification. The level of effect would be dependent on the location of existing roads, trails, other ROWs, and/or easements relative to the location objective of the user. Mitigation measures to alleviate this problem would include coordination of proposed leases with the overall transportation plan and individual travel management plans as applicable." Supplemental Draft EIS JMH CAP Page 4-111.

9 "Portions of JMH are designated as avoidance or exclusion areas for ROWs. Avoidance areas are public lands where future ROWs may be granted only when no feasible alternative route or designated ROW corridor is available; exclusion areas would permit future ROWs only when mandated by law. The ROW avoidance and exclusion areas for the JMH planning area were established in the Green River RMP (Map 8)." Supplemental Draft EIS JMH CAP Page 3-33.

There is no scientific basis for imposing such restrictions, and geophysical activities should be treated differently in the final EIS. Any mitigation imposed on such activities should be commensurate with the minimal potential impact posed by such activities.

Geophysical exploration, even when on-highway type vehicles are utilized, is immensely different than impacts from ROWs, however, the document fails to make any distinction at all. Without supporting documentation that geophysical activities cause impacts of a similar nature (i.e. duration, timing, season of use, types of vehicles used, travel speeds etc.) the preferred alternative to apply ROW restrictions to geophysical is both arbitrary and capricious.

BLM must recognize that acquisition of subsurface data employing modern technologies will positively affect management of the resources of the JMH area. Efficient and economic acquisition of geophysical data is an important first step toward industry's ever increasing ability to reduce its footprint on the ground. Through the use of conventional and 3D seismic technology, with minimal restrictions to surface access, a thorough understanding of the subsurface can be obtained in a minimally invasive manner.

**Repurchase of Leases**

Funding concerns also apply to the declaration under Alternative 1 that BLM may wish to buy back or exchange leases. The viability of such a scheme is uncertain and will only serve to continue the seemingly unending denial by BLM for the current leaseholder to exercise their lease rights.

**Historic Trails**

Under the Preferred Alternative, BLM mandates that the viewshed protection measure for National Historic Trails would be maintained at approximately 3 miles either side of the trail trace. This limitation would only allow intrusive activities when the results of a viewshed analysis show no adverse effect to the viewshed. The current GRRMP decision for protection of the trail and its viewshed is ¼ mile either side of the trail or the visual horizon, whichever is less. BLM must abide by the current stipulation until the Trail Management Plan is completed, is subject to public review and the GRRMP is revised.

**Conclusion**

Overall, APC finds the preferred alternative's reliance on the "uncertainty" of the interactions between oil and gas development and other resources unusual. The JMH CAP Supplemental DEIS refers often to the "uncertainty" involved with the interaction of the environment and development activities. These assertions are made despite BLM's past ability to document, for purposes of NEPA, the potential effects of oil and gas development on the human environment and apply appropriate mitigation.

APC believes that BLM can properly manage and mitigate for oil and gas development under it traditional means whereby an exploration well is proposed, if successful a number of confirmation wells are allowed to be drilled and then prior to full field development a field level NEPA document is completed. Incorporating this process along with a management approach that monitors and modifies performance based standards should be the direction taken by BLM for the JMH planning area.

Finally, it is APC's contention that the identified uncertainties are not so critical to disallow oil and gas exploration and subsequent development to occur throughout the JMH planning area from the onset. This is especially true in regards to the elk population which has flourished amid oil and gas development in the area dating back to the 1920's.

Sincerely,

Tom Clayson