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United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
4000 Airport Parkway
Cheyenne, Wyoming 82001

In Reply Refer To: BS-6141/W/02
WY-0912

May 23, 2003

Memorandum

To: Renee Dana, Team Leader, Bureau of Land Management, Rock Springs Field Office, Rock Springs, Wyoming

From: 
Jodi L. Bush, Acting Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming

Subject: Comments on the Supplemental Draft Environmental Impact Statement for the Jack Morrow Hills Coordinated Activity Plan/Draft Green River Resource Management Plan Amendment

This response is in reference to our review of the Supplemental Draft Environmental Impact Statement (EIS) for the Jack Morrow Hills Coordinated Activity Plan/Draft Green River Resource Management Plan Amendment (JMHCAP/draft GRRMP amendment). These documents were received by our office on February 18, 2003. The Supplemental Draft EIS contains information relative to separate alternatives for management of the Jack Morrow Hills (JMHCAP) Area. These documents describe potential Bureau of Land Management (Bureau) activities and their effects to resources for Sweetwater, Sublette, and Fremont Counties, Wyoming.

After our review, the U.S. Fish and Wildlife Service (Service) has the following comments and suggestions for your use in finalizing the draft BA and draft EIS and GRRMP amendment.

General Comments

1. The Service realizes that the development of this draft BA is an ongoing process and is not in its final state. The Service recommends that the Bureau continue to develop the BA and provide greater detail in the draft Biological Assessment regarding potentially authorized activities and their effects to listed species.
2. The Service recommends that the Bureau clearly indicate what commitments the Bureau intends in regards to listed species and incorporate them into the BA as it is developed and finalized.

3. The Service recommends that the Bureau effects determinations for listed and proposed species be clarified in the Final EIS and final BA based on the comments contained herein.

Specific Comments

Volume 1, Chapter 2, Page 13, Lines 6-18, Lines 23-25; Page 35, Line 1; Page 75, Lines 23-26; Page 110, Lines 22-28; Page 111, Lines 27-33; Page 114, Lines 11-17; Page 120, Lines 18-24. The document states that "...protective measures will be developed in consultation with the USFWS..." The Service suggests that the word "consultation" be dropped from this sentence to read, "... protective measures will be developed with the Service...". The term "consultation" legal connotations associated with the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* and typically occurs prior to issuance of a record of decision or final EIS.

Volume 1, Chapter 2, Page 46, Lines 16-19, Page 75, Lines 41-43, Page 2, Lines 3-7, and Volume 2, Appendix 3, Page 11, Lines 37-39. The document states that traffic speeds for Bureau roads will be "limited" within 1/4 mile of mountain plover nesting concentration areas. The Service believes that the Bureau should clarify the meaning of "limited" in a way that is understandable to all Bureau land users.

Volume 1, Chapter 2, Page 119, Lines 11-17; Volume 2, Appendix 3, Page 10, Lines 17-19. The document states that black-footed ferret "searches" would be conducted within 1 year prior to authorizing any surface disturbing or disruptive activities in all or portions of potential ferret habitat. The Service suggests that this statement be reworded to state that black-footed ferret surveys would be completed 'according to current Service protocol' within 1 year prior to 'conducting' any surface disturbing or disruptive activities in all or portions of potential ferret habitat areas.

Volume 1, Chapter 2, Page 120, Lines 25-31. The document states that "avoidance areas for surface disturbing activities and disruptive activities" would be designated for active mountain plover nesting aggregation areas from April 10 through July 10. The Service recommends that the Bureau define "avoidance area" and provide a clear description of what types of activities could be authorized in these areas.

Volume 1, Chapter 2, Page 121, Lines 14-18. The document states that "measures" will be taken to limit hunting perches or nest sites for avian predators. The Service recommends that the Bureau describe these "measures" in detail.

Volume 1, Chapter 3, Page 21, Line 25, Page 22, Lines 1-6. The document states that whooping cranes may be present in the planning area and therefore require an evaluation under the Act. The Service considers the whooping crane to be extirpated in Wyoming as the experimental whooping crane population which made up the Grays Lake migratory population no longer contains any whooping cranes. Due to this information, there is no longer any reason to develop a biological assessment and evaluation within the planning area for the whooping crane.

Volume 1, Chapter 3, Page 22, Lines 14-19. The document describes the yellow-billed cuckoo and its habitat. The Service recommends that the Bureau clarify that only the "western" population of the yellow-billed cuckoo is currently on the candidate list for Threatened and

Endangered Species recommended for listing under the Act. The western population consists of *all* individuals west of the continental divide.

Volume 1, Chapter 4, Page 50, Lines 41-43. The document states that there would be no effect to the blowout penstemon because occurrence is unlikely. Although the Service agrees that occurrence of the Blowout Penstemon is unlikely, the definition of a no effect action is one which has no effect, not a minor effect, an unlikely effect, or a discountable effect. It is the Service's opinion that effects can still occur to a species even though its occurrence is unlikely.

Volume 2, Appendix 3, Page 2, Lines 7-8. The document states that "decisions made in the supplemental draft environmental impact statement will result in amending the RMP". It is the Service's understanding that no decisions are made in the draft EIS and that decisions are actually made in the Record of Decision National Environment Policy Act document.

Volume 2, Appendix 3, Page 3, Lines 21-27. The document describes a number of potential threats to the bald eagle including: poisoning, shooting, and electrocution. The Service recommends that the Bureau describe additional threats including (1) disturbance of roosting and nesting pairs (2) surface disturbing activity within close range to bald eagle nests and roosts and, (3) disturbance or destruction of foraging habitat for nesting pairs.

Volume 2, Appendix 3, Page 10, Lines 2-3. The document states that the bald eagle is a casual migrant to the planning area and no effects to the bald eagle are expected to occur from implementation of the project plan. The Service recommends that the Bureau provide documentation in the biological assessment that surveys have been conducted and no roosts or nests are known to occur in the planning area. If bald eagle roosts or nests are found or become established on the planning area, the Service recommends that the Bureau reinitiate consultation with the Service at that time.

Volume 2, Appendix 3, Page 10, Lines 6-8. The document states that surface disturbing activities on or near prairie dog towns or colonies as a result of mineral development activities could "take" black-footed ferrets. The Service recommends that the biological assessment contain a more detailed description of these "surface disturbing activities".

Volume 2, Appendix 3, Page 14, Lines 7-10. The document states that the depletion analysis for coalbed methane development only considers withdrawals for well drilling and completion. The document goes on to state that dewatering for coalbed methane production will be evaluated during the site-specific analysis required for the Application for Permit to Drill process. Under the consultation process, the Service would need to know what the extent of withdrawals will be for well drilling, well completion, and for the coalbed methane production phase of the operation. Dewatering should not be analyzed separately from withdrawals for well drilling and completion as it is interrelated and interdependent to them.

Volume 2, Appendix 3, Page 14, Table A3-1. The table gives a figure of 1.5 acre-feet of water use per oil and gas well. The Service recommends that the Bureau clarify how it determined the estimate of 1.5 acre-feet per well. In addition, the Service recommends that the Bureau describe what the use of the water will be for (i.e. drilling).

Volume 2, Appendix 3, Page 14, Line 28. The document states an effects determination of "likely to jeopardize the continued existence of the species". The Service has previously determined that any depletion to the Colorado River System would lead to Jeopardy for downstream Colorado River Fishes. However, because of progress in the recovery of these species by the Colorado River Program, the Service recommends that this determination be changed to "may adversely affect the four endangered Colorado River Fishes and their critical habitat".

Volume 2, Appendix 3, Page 16, Lines 35-37. The document states that the Bureau assumes that state and private landowners are responsible for initiation of consultation with the Service should there be a possible threatened or endangered species on their land. If there is no Federal nexus through permitting, funding or otherwise authorizing the project or action on State or private land then the landowners need not contact the Service unless the landowners are concerned that they may "take" a listed species under the Act. If there is a Federal nexus on a project to be implemented on private or State land, then the Service should be contacted to determine if the project may affect a listed species.

Volumes 1 & 2. The Service believes that the documents inadequately address the effects of oil and gas production on migratory birds. The Service recommends that the Bureau consider the following information for use in their analysis of effects.

Oil Production. Oil production may result in the use of skim pits to separate oil from produced water. Birds are attracted to oil pits by mistaking them for natural bodies of water. The sticky nature of oil entraps birds in the pits and they die from exposure and exhaustion. Birds that do manage to escape can die from starvation or the toxic effects of oil ingested during preening. Waterfowl ingesting sublethal doses of oil can experience impaired reproduction. Additionally, female aquatic birds returning to their nests with oil on their feathers can inadvertently apply the oil to the eggs. Microliter amounts of oil applied externally to eggs are extremely toxic to bird embryos. Scavengers and predators can also suffer adverse effects by consuming oiled birds. A study of bird mortality in oil pits in Wyoming conducted by Brent J. Esmoil for the University of Wyoming demonstrated that deterrents such as flagging, strobe lights, metal reflectors and noise makers were not effective at preventing bird mortalities from occurring in these pits. Esmoil did not find any mortality in pits completely covered with netting or wire mesh. The analysis should address measures to prevent migratory and other wildlife mortality in oil field production pits.

Natural Gas Production. Natural gas production may require the disposal of large volumes of produced water with high levels of total dissolved solids (TDS). Produced water with TDS levels exceeding state water quality standards is usually disposed of by deep well injection or in commercial oil field wastewater disposal facilities. The commercial disposal facilities dispose of the water by evaporation in large ponds. Pits or ponds containing hypersaline water can pose a threat to migratory birds. Birds entering these pits can ingest the brine and die from sodium toxicity. Salt toxicosis has been reported in ponds with high sodium concentrations. Ingestion of water containing high

sodium levels can also pose chronic effects to aquatic birds, especially if a source of freshwater is not available nearby. Aquatic birds ingesting hypersaline water can be more susceptible to avian botulism. During cooler temperatures, sodium in the hypersaline water can crystalize on the feathers of birds landing in these water bodies. The sodium crystals destroy the feathers' thermoregulatory and buoyancy functions causing the bird to die of hypothermia or drowning. Thus, it is important to cover the pits if birds are using them. The Supplemental DEIS should address these impacts and measures to avoid or mitigate these impacts.

Coalbed methane gas production. The Service realizes that the preferred alternative for the supplemental DEIS does not authorize surface discharge of produced water for coalbed methane production. However, if the preferred alternative is not selected or is modified to allow surface discharge of produced water, then the following information may be pertinent.

Coalbed methane gas production may also require the disposal of large volumes of produced water. Produced water often contains high concentrations of dissolved salts, making it unsuitable for irrigation and toxic to native plants. Soil irrigated with this water will accumulate salts which destroys soil structure and inhibits water uptake by plants. The sodium absorption ratio (SAR) of produced water typically is 10-12 times the level beyond which soil will maintain structure to support plant productivity. While there is debate over absolute values for acceptable limits for SAR, there is consistent agreement that high SAR water is a source of significant impairment of many soils, particularly irrigated soils and soils of arid or semi-arid regions. Consequently, important wildlife habitat may be severely impacted or eliminated by surface discharge of produced water. Additionally, discharging large volumes of produced water into rivers and streams can severely impact aquatic species and their habitats. Potential impacts include changes in stream temperature and hydrology, and increased erosion and sedimentation resulting in the destruction of fish spawning grounds and compromising fish and aquatic invertebrate growth and survival. Discharge of coalbed methane produced water into closed containment reservoirs for disposal by evaporation may present a risk to aquatic birds because trace elements in closed containment ponds can be elevated through evaporative concentration.

In addition, the Service has received petitions to list the sage grouse (*Centrocercus urophasianus*), white-tailed prairie dog (*Cynomys gunnison*), and the pygmy rabbit (*Brachylagus idahoensis*) pursuant to the Act. We encourage the Bureau to take all necessary measures allowable to protect sage grouse, white-tailed prairie dogs, and pygmy rabbits in the project area to ensure projects do not exacerbate factors contributing to decline of these species and thus give support to their listing petitions. We encourage the Bureau to work closely with the Wyoming Game and Fish Department to develop measures to conserve these species to be implemented as part of proposed projects in the Jack Morrow Hills Area.

If you have questions regarding these comments or suggestions on the Supplemental Draft Environmental Impact Statement for the Jack Morrow Hills Coordinated Activity Plan/Draft Green River Resource Management Plan Amendment or your responsibilities under the Act, please contact Alex Schubert of the Wyoming Field Office at (307) 772-2374, extension 38.

cc: BLM, Cheyenne, Endangered Species Program, (J. Carroll)
WGFD, Cheyenne, Statewide Habitat Protection Coordinator (T. Collins)
WGFD, Lander, Non-Game Coordinator (B. Oakleaf)

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Hellyer Limited Partnership

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Ph/Fax 307.332.4610

May 19, 2003

Renee Dana
Bureau of Land Management
Rock Springs Field Office 280
Highway 191 North Rock
Springs, WY 82901

Supplemental Draft EIS for the Jack Morrow Hills CAP/Draft GRRMP Amendment

Dear Renee,

Thank you for the opportunity to provide comments. The Jack Morrow Hills planning process has consumed much of our time and yours as well. Consequently, we are encouraged by this final set of comments that indicate the process is coming to a resolution.

With several small exceptions, which we will detail below, the Preferred Alternative represents an acceptable plan that deserves the opportunity to be implemented. As we have said in the past, the ink was barely dry on the GRRMP when we were thrust into the JM process. The JM process needs to end and finality is found in the Preferred Alternative.

On page 4-81 it is suggested that habitat fragmentation occurs when a "contiguous habitat is broken up (fragmented)...." This particular section goes on to describe the effects of roads on habitat. It does not address the result of fragmentation of a ranch due not to roads or oil and gas activity which are not the dominant threat to the area. The dominant threat to the area is the loss of a viable ranch. An operating ranch, with a functioning viable permit, is an asset. The preferred alternative works to ensure the continued viability of our ranch. However, it would be encouraging if this were reinforced by some form of statement in the Final EIS that recognized the value of an unfragmented ranch. An unfragmented ranch is devoid of weekend getaway cabins in the wild. Specifically, does the BLM consider an operating ranch, with its associated permit and scattered parcels of undeveloped land an asset and are we correct to assume that the BLM intends to continue working with us to ensure that the overall bureaucrat climate remains relatively accessible for the rancher to continue the operation?

Section 3.2 (Heritage Resources) is of particular interest to us. Our livestock operation occurs within much of the South Pass Historic Landscape. Due to this location we have experienced how regulations impact our operation. Whether it is the location of a water tank or the route of a fence, our ranch presently deals with this landscape designation. We do not feel that any further regulation of the area would be appropriate

beyond what the Preferred Alternative holds. If we are unable to develop water and build or maintain fences within this area, our operation will be put at a disadvantage compared to other areas. The restrictions, with exceptions, can work for us as they are currently suggested in the preferred alternative. However, within the South Pass Historic Landscape there occur other designations such as WSAs and Historic Trails. It is essential that these various layers of designation are contained enough so that when a project is proposed it is not subject to so great an amount of scrutiny that the project is lost to overlapping layers of regulatory burdens. For example, if a water well was proposed in the Historic Landscape, near a Historic Trail, and visible from a WSA then some accommodation must be made so that the project can move forward without dying from a collection or single issue related to the various resource concerns. In other words, we are hopeful that the Preferred Alternative is flexible enough to allow for exceptions and common sense. Livestock management is not an exact science and should therefore not be subject to extreme GIS scrutiny of the absolute proper place to locate a water development or fence.

It seems rather strange that some Heritage Resources will be exploited through interpretive signs and general signing of areas (as in signing trails - as opposed to simply letting people read a map) and in other areas locations are kept confidential to protect them [Sites]. Heritage Resources includes both Native American Sites and Historic Trails. These resource concerns should be subject to no less scrutiny than a water tank. That is to say, if the location of a water tank must pass the visibility test, then the location of a Site or Trail should pass the identifiable test. In other words, to be consistent, the Final Plan should recognize that just as some Native American Sites are kept confidential to protect their integrity (confidentiality being an exception to signing) then the water tank should be granted an exception (that being the location will be visible from a WSA, an Historic Trail, and located within a sensitive viewshed). Specifically, the Continental Divide Trail, like some Native American Sites, is simply there. It does not need to be signed, it does not need to be advertised, and it does not need to be exploited. Is it the intention of the Preferred Alternative to sign, locate, and publicize the side-route to the Continental Divide Trail? The Continental Divide Trail, as well as the Historic Trails, go right through, or adjacent to, our private property. Most of our ground is unfenced and unsigned. We have a special relationship with these trails. It is a relationship built on mutual trust - trust that demands that our grazing permit remain viable, complete with water developments, some fences, and the full compliment of AUMs and grazing seasons. If these are jeopardized then the trust is jeopardized. In turn, our property maintains its agricultural nature. We do not support signing of any Trail, expansion of any WSAs, or any new WSAs.

We are concerned that the category Big Game Winter Range as described in 2.7.1.7 contains so broad of a term in the use of prohibiting disruptive activities that future needs of our ranch will potentially be limited by some arbitrary use of disruptive, as in the presence of livestock near wildlife, that Winter Ranges will in effect become *defacto* "off-limits" areas to us.

Our ranch is based on long term thinking. The herd has taken years to develop and the ranch itself has taken decades to put together. With this in mind we need some

specific answers to long term questions or suggestions. Questions or suggestions that when answered will give us an indication of where we are headed concerning our long term relationship with the Bureau of Land Management.

The management objectives falling under the South Pass Historic Landscape ACEC, *South-15 in particular*, could use some adjustment. To describe grazing management actions and objectives in purely rangeland ecology terminology when discussing management objectives for a landscape is simply generic. A landscape is comprised of much more than science. The landscape at hand has historical elements of westward expansion and manifest destiny, as well as living and thriving results of this move westward. Consequently, any management objective that is designed to ensure the integrity of the landscape must consider the impacts on current ranching operations that any strictly science based management action is designed to accomplish. In these respects we respectfully submit to you the following:

We suggest the management object *South-15* be changed to read, "Livestock grazing objectives... (upland and riparian). Continuity of historic livestock operations will be considered to avoid unnecessary ranchland fragmentation." It is necessary to include this change because when present day livestock operations change there always exists the chance that these operations will shift from agricultural to other hands. Other hands may have other plans. The commercialization of a landscape is not necessarily conducive to the landscape's better health.

We suggest the management objective *LVSTK-7* be changed to read, "Requests for conversions... available forage. Consideration will be given to the operators as to what type of livestock is most consistent with present or future operation needs." It is necessary to include this change because requests for conversions can be delayed by environmental considerations that appear to have no end at times, and have the potential to cause economic harm to operators. Economic harm thrust upon a livestock operator is not necessarily conducive to long term stability of an operation and by extension long term viability of a landscape.

We suggest the management objective *LVSTK-15* be changed to read, "Water sources may... and wildlife. Consideration will be given to the integrity and present and future needs of livestock operators." It is necessary to include this change because livestock exist in or near the vicinity of the Study Area at many times of the year. Specifically, we are concerned that the definition of crucial winter ranges could be manipulated so as to exclude cattle from *areas* in the summer, which in turn shifts the entire area into a defacto winter feed ground. Parts of the area are most certainly winter territory for livestock and wildlife. The importance being that the two are capable of existing in the same area at the same time - with water developments.

We suggest the management objective *REC-5* drop the designation of the Continental Divide National Scenic Trail from the special recreation management area category. As we stated earlier, we object to the commercialization and exploitation of a trail which exists solely in geologic terms. There is no historical value nor is there any heritage value in the Trail. There did not exist a primitive or first-peoples that made their enjoyment (recreation) out of traversing the North American Continent from up or down nor is there today a group of people whose sole purpose in life is to traverse the land from top to bottom. This type of endeavor is not for those who need sign posts to guide them in their way of life. Specifically, for those who wish to go to some "wild" place, then

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most certainly those seeking the "wild" would wish to not have their trek posted from sign to sign. Once it is posted it is most definitely tamed and once it is tamed it is only a matter of time before it is conquered. Once it is conquered the question then becomes of what to do with it, and thus we will plan for the Trail's then survival, but the "wildness" will certainly be gone.

We suggest the management objective *WH8* be changed from, "Fencing in...." to, "Fencing in or out..." It is necessary to include this change because there exist areas where cattle bear the brunt of the horse use. In other words, moving the cattle to lessen pressure on certain areas proves little due to the immediate influx of the horses. Consequently, if the horse has absolute freedom to grub the range or riparian into the dirt, and the cow pays the penalty, then there exists little incentive for the livestock operator to work at improving the range, cattle distribution... The feral horse is certainly capable of environmental damage. It makes very little sense to demand water quality standards or range standards from a livestock operator when the horse is immune to the same test. The Preferred Alternative's management plan for horses, which maintains the herd level at 415-600 horses, works in the immediate future in theory. However, in the long term this number must be lowered to the bottom of the range because **by the time round ups are scheduled and actually completed the horse numbers rise above the upper limits and subsequent round ups accomplish only enough to bring the numbers back to upper limits.**

The concerns we listed above are our concerns alone and we do not wish to lessen the overall nature of the Preferred Alternative. We do have a long term relationship with the BLM and we intend to continue our ranching operation for as long as the bureaucratic environment that guides grazing in the Jack Morrow area exists in a favorable nature. We think that it is essential that the BLM work directly with the permittees to address future problems and concerns that may arise. We are hopeful that the Preferred Alternative does not change this direct BLM / Permittee interaction by introducing into the range management equation some additional form of public involvement. We feel strongly that the public, including ourselves, has had ample time to *offer* input into the process. Consequently, once the plan is finalized we look **forward** to pursuing projects which have been on hold for the past 4 years. We believe the Preferred Alternative will allow the BLM the opportunity to meet the objectives that they have set.

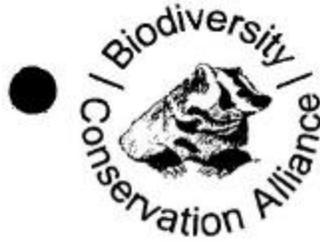
Again, thank you for the opportunity to provide you with comments. Finally, we do ask that this plan, or at least the grazing component, is put into Full Force and Effect as soon as possible. We have projects to complete, goals to meet, and future plans to implement.

Sincerely,



Rob Hellyer

General Partner, Hellyer Limited Partnership'



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Working to Protect Native Species and Their Habitats

P.O. Box 1512 Laramie WY 82073 (307)742-7978 fax: 742-7989

May 23, 2003

Bureau of Land Management
Rock Springs Field Office
Rence Dana
280 Hwy 191 N
Rock Springs, WY 82901

Dear Ms. Dana;

Enclosed please find the transcript of the testimony given at the public meeting in Laramie on May 7, 2003, regarding the Jack Morrow Hills Coordinated Activity Plan and Supplemental Draft Environmental Impact Statement.

First, I would like to voice on behalf of Biodiversity Conservation Alliance (BCA), Friends of the Red Desert, and the citizens who testified at the meeting, the disappointment we feel with regards to the way the Bureau of Land Management (BLM) has handled the public comment period on this issue. The agency has repeatedly failed its obligation to sponsor a fair and even-handed public comment process. The National Environmental Policy Act requires agencies to hold public hearings when there is "substantial environmental controversy concerning the proposed action or substantial interest in holding the hearing." And the BLM's own handbook states that meetings should be held at times and places that facilitate and encourage public participation. Recent actions by the BLM show that agency decisions regarding public participation have not met the spirit and intent of those regulations, and they leave us gravely concerned that the agency has shown a predisposed bias towards industry.

Because a large proportion of the Laramie and Cheyenne public have long been deeply concerned with public land issues in the Red Desert, Biodiversity Conservation Alliance has twice formally petitioned the BLM to hold public hearings in the local area regarding the Jack Morrow Hills plan. After the BLM refused, a coalition of conservation groups organized and conducted its own public hearing, at which 48 residents offered spoken testimony, often including heartfelt stories of their own personal experiences in the Jack Morrow Hills. The number of speakers offering testimony at the Laramie hearing was comparable to the speakers at official BLM hearings in Rock Springs (56) and Lander (65), indicating that the level of public interest, and therefore the BLM's obligation to hold hearings, was just as great in Laramie as in Rock Springs or Lander.

As if the BLM's failure to hold hearings in Laramie were not a strong enough indication of its disregard for Wyoming citizens, agency officials failed to even show up to the Laramie hearing. After committing to sending BLM staff, Ted Murphy called on the day of the hearing to announce that the BLM would not attend. He cited "trade publications" indicating that the event would really be "more of a rally than a

public meeting," an excuse that your office repeated in Wyoming newspapers. In point of fact, the Laramie hearing was advertised as open to the public, was held to the same standards as the official Rock Springs and Lander hearings, and participants conducted themselves with greater restraint and decorum than at either of the BLM-sponsored events. The agency's refusal to attend sent the message that the BLM is uninterested in what the public has to say.

Furthermore, even if the Laramie meeting had been a rally why does that automatically mean that the BLM will not attend? The Green River Star recently quoted you as saying that the BLM did not attend due to an effort to keep the agency unbiased. However, the Laramie meeting was just that, a public meeting. But if we ourselves had used the word rally, why would that change things? The fact is that it would still be an event in which citizens who own this land voice their concerns to the agency that manages it. Indeed, was the Jonah Infill project public meeting in Pinedale that happened to be held at an oil industry barbecue called a rally? In fact that's what it was; yet the agency not only attended, but also helped organize it. The BLM allowed a public open house be turned into a gas industry pep rally when the agency agreed to a last minute request from industry to change its location from the Sublette County Library to the site of a company barbecue held by the EnCana Corporation and British Petroleum. Workers from the gas fields were given time off from their jobs, a free meal and ample time to speak for the industry at this BLM "public" open house. Clearly the BLM cannot make the case that this forum was fairly open to all points of view. Many citizens of Pinedale have since said that they did not attend the hearing due to the location change and fear of intimidation. This change in venue failed to provide a fair and even-handed exchange of ideas that Federal agencies are supposed to provide the public.

In contrast with the previous examples in which the public requested public hearings but was denied and the refusal of the BLM to attend an organized public meeting, in the Jonah case, at the request of industry BLM willingly changed the location of the hearing and turned it into an industry event. This double standard is unacceptable and we are concerned that this type of misconduct by the agency may bias the outcome of the public scoping processes.

That said, I will move on to the details of the meeting. About 100 people attended. As noted, 48 decided to testify, and others may have if they had been given an opportunity to first ask questions of BLM officials. Of the 48 citizens who spoke at the hearing, 47 favored protection for the area, while one speaker voiced no opinion on whether the area should be drilled or protected, but criticized the BLM's environmental analysis as inadequate. Not a single speaker favored oil and gas drilling in the Jack Morrow Hills area. I have taken the time to type in a few of the quotes that carried the most salient points for your review:

"I have visited the Red Desert and I was truly awed by the experience, and uplifted by its pristine beauty... We need a hermitage, a refuge. We need it for wildlife, we need it for us." - Cerrina Smith, a trainer at F.E. Warren Air Force Base in Cheyenne.

"Developing [oil and gas] resources is in everyone's interest. But also, the Bureau of Land Management needs to understand that there are some areas that have higher value than what we can pump out of the ground, and I think that's clearly the case with the Jack Morrow Hills." -- State Senator Mike Massie (D-Laramie).

"The preferred alternative for management needs much stronger protection for wildlife, wilderness, and historic places," - Ken Cramer, Laramie resident.

"It's a place of incredible beauty and vast spiritual innate powers and I can't imagine not having that place... We need more than cheap oil and gas; we really need vast expanses of wild lands." - Michele Barlow, Laramie resident.

"Please let's protect the Oregon, California, Mormon Pioneer and Pony Express National Historic trails because we owe them to the generations that come after us." - Lesley Wischmann, Laramie resident.

"I'm increasingly concerned about where the pressures [for development] come from. They don't come from the average guy on the street; they come from big business, big money, big politics." - Dick Naumann, Laramie resident.

"This is our state, this is our home. We have the right to preserve our lands in this area." - Brandon Drake, Laramie resident.

"The most precious resource we have on public land, and the most precious resource we'll have in the future, is undeveloped land." - Dr. Deb Paulson, Professor of Geography, University of Wyoming.

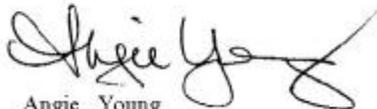
"I don't want the Red Desert to look like the Powder River Basin, with all the development there. The BLM owes it to Wyoming citizens to protect the Jack Morrow Hills." - Melissa Bartley, Laramie resident.

"The Red Desert is an especially important place to my family. It is a gorgeous place. I want to keep it that way forever and be able to take our son there. I want him to appreciate wild places." - Whitney Nichols, Laramie resident.

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Please read the enclosed transcript carefully and include all comments in the public record on this issue. As you will see, citizens of southeast Wyoming favor protection of the Jack Morrow Hills. This testimony, together with the testimony from the Rock Springs and Lander meetings, and the tens of thousands of other comments favoring protection of the Jack Morrow Hills, should point the agency clearly to the correct course of action. The Jack Morrow Hills is highly valued by Wyoming and U.S. residents (the owners of this land) as one of the last best wild places in Wyoming and it is simply too special to be developed.

Sincerely,



Angie Young
Spokesperson for Red Desert
/Organizer

Jack Morrow Hills Meeting
Albany County Library May
7, 2003

Welcome to the Laramie hearing for the Jack Morrow Hills Coordinating Activity Plan. My name is Jeff Kessler, conservation director of Biodiversity Conservation Alliance (BCA) -one of the groups sponsoring this meeting. I am going to make a few introductory remarks and then lay out the ground rules for speakers and then we will get started. This hearing is sponsored by Friends of the Red Desert and was organized by Biodiversity Conservation Alliance. We, BCA, are a conservation group based here in Laramie.

The Jack Morrow Hills Coordinated Activity Plan will govern the way the Bureau of Land Management manages about 620,000 acres of public lands in the northwest portion of the Red Desert. These lands run in common by all Americans and managed for US citizens by the Bureau of Land Management or the BLM. As you may know the BLM has been engaged in a planning process for this special area of the Red Desert for a long time. Several months ago we asked the BLM to hold a hearing in Laramie so the local citizens could voice their concerns about this special part of the Red Desert and the BLM decided against holding a hearing in Laramie. But, the more we talked to people about the Red Desert in the Laramie-Cheyenne area the more we heard that folks wanted to express their opinions and concerns to the BLM in a public meeting. But they didn't have the capacity to make the trip to Rock Springs or Lander, which you know takes quite a bit of time if you are a working stiff. So, Friends of the Red Desert and Biodiversity Conservation Alliance decided to hold a hearing here in Laramie and to invite the BLM. Initially the BLM said they would attend, but we just learned today that they decided not to attend. However, according to federal law the BLM must consider comments from the public as it drafts its plan and prepares its environmental impact statements. So we are recording your comments tonight and we will deliver them as official public comments. The agency is required by law to respond to these comments as it drafts its plan. So your voice will be heard.

Now for the ground rules:

- folks with all points of view will all be given an equal opportunity tonight to speak at this hearing regardless of what side of the issue they are on. It is probably true that you will hear view points that you don't agree with. We just ask that you extend all participants common courtesy by refraining from interrupting speakers while they are speaking. Please give speakers the same courtesy you expect when you are talking.
- There is a sign up list at the back of the room. We will be calling names in the order that folks sign up unless people are really on a tight schedule and ask to be moved forward. We ask your indulgence in that case and we will try to accommodate folks.
- We are going to keep comments to five minutes per person. If the list gets filled up we might go shorter than that but hopefully we won't have to. Unfortunately, it is kind of hard to say at the start whether that is going to happen or not. If you are unable to say everything you want in five minutes, if everybody goes through once and says what they can in five minutes, we can start going back through again.
- When you give your testimony please start out with stating your name and spell your last name so that in the official public record we can get it down right. And if you are representing an organization or an elected official please state that as well.
- Patrician Dowd (over here) will be showing people how much time they have left. And if you are like me you have a tendency to ramble on so she will show you when you have one minute left, 60 seconds left, and then 30 seconds left.

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Thanks very much.

Nancy Sindelar
816 S. 2nd St.
Laramie, WY 82070

I am a Laramie resident. I am aware of what this country looked like in parts when the first explorers, the first white folks came through here 250 years ago or so and in 50 years or so when the people have forgotten who I am I want it to look the same. And now is the time to make a decision. Now is the time to protect the last free wild places we have. Thank you.

Ed Sherline
610 Custer
Laramie, WY 82070

I am a philosophy professor at UW. And, there is no need for complex philosophical ruminations on why I support the citizen's wildlife alternative. It is simply that where there is incredibly fragile, beautiful and intrinsically valuable areas they need to be protected for both us and for our posterity. Its like trying to sell off a beautiful diamond ring now because you are a little short of cash and in the future you are going to regret it. That is all.

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Jeremy Nichols
656 N. 14th Apt. B
Laramie, WY 82072

Thanks. I express a lot of concerns to the BLM about the Jack Morrow Hills area and I very strongly believe that this area needs to be protected as much as possible. I also express to the BLM my desire for them to hold a public meeting here in Laramie as a public citizen and was told, on numerous occasions, that they weren't going to do it. I definitely feel like the BLM is trying to short their responsibility to listen to the public in this case. I think they feel the Jack Morrow Hills is not a state wide issue, but in fact it is. It has been, I think, the focal point for a debate between conservation and exploitation in Wyoming for the last three or so years. It is a state wide issue and I wish the BLM would start recognizing it as such and start holding meetings elsewhere and start listening to what the whole state has to say not just to people in Rock Springs and Lander. One other concern that I have - I recently became a father, I have a little nine month old son now, and I have been out in the Red Desert and the Jack Morrow Hills area extensively. I have been to a lot of the areas that may be recommended for Wilderness and that are protected somewhat now. I have also seen areas of the Red Desert that have been drilled and that have been turned into gas fields that have been heavily degraded by livestock grazing. I have seen areas that off-road vehicle use has torn up native vegetation, especially in the sand dunes area. I just don't think that this is the place for that kind of activity. I think that this is a place for protection and especially thinking about my son and what he is going to experience here in the future. I want him to experience protected areas in Wyoming. Once they are gone they are gone. I would hate to have to tell him that the BLM just chose to let this area go because I don't think it is worth it in this particular area. I want him to be able to experience what I have experienced and so I want the BLM to protect all the potential Wilderness in this area and I want

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them to protect all living beings there - the wildlife, the fish, the plants. I want them to preserve this area. This is an area that deserves to be preserved and I hope that is what happens.

Whitey Nichols
656 N. 14th Apt. B
Laramie, WY 82072

Hi my name is Whitney Nichols and this is my son Obsidian. And the Red Desert is an especially important place to us as a family. When I met my husband I was living in Denver and he was living here in Laramie and he took me camping in Wyoming for the first time in the Red Desert and that is actually where we fell in love. And that is where I actually fell in love with Wyoming. And if I had not seen the Red Desert in all of its splendor and beauty I probably wouldn't have moved up here. And possibly wouldn't have fallen in love with Jeremy. But, it was a gorgeous place and I want to keep it that way forever. And I want to take our son there and be able to tell him the wonderful stories about my husband and I meeting there. And I want him to appreciate all wild spaces and I want to stop the oil there and the off-road vehicle use there. I come from southern California a place that was probably gorgeous, but we will never know because now all that is there is oil rigs and cities and freeways and stuff like that. I love Wyoming because it is wild and it is open and it is beautiful and I want to see it kept this way. And I want Obsidian to have it this way forever also.

Bob Strayer
719 S. 22nd St.
Laramie, WY 82070

First of all I wanted to thank the organizers of this hearing tonight. That would be the Biodiversity Conservation Alliance, the Wyoming Outdoor Council, Wildlife Federation, Wilderness Society, and the Sierra Club who organized the public hearing to accept testimony on the future of the Jack Morrow Hills. I know this was done in part because the BLM again failed in their responsibility to facilitate adequate public input on important decisions regarding public lands. I know also that the BLM's failure in this incidence is part of a greater pattern in effort on part of the Bush Administration to limit, as much as possible, public input regarding the use of public lands across our country. The intent of all this appears to be an effort to open up our public lands to unbridled development of energy in the last frantic, feeding frenzy by mineral developers who have this administration in their pockets. Sadly, it is no longer apparent that we can count on the agencies mandated to steward our public lands. And so this hearing tonight the struggle goes on. When I thought about coming to testify tonight I immediately began to agonize over what I was going to say that perhaps had already been said with eloquence and conviction about the Jack Morrow Hills. Yes I have been there and seen and been touched spiritually and otherwise by the place, but all the testimony, letters, emails that were written by others and probably know the area better than I made me pause. Therefore, I decided I wanted to say thank you and that I am humbled to be here tonight with those of you who have struggled so long and so diligently and determinedly to protect this wonderful place called the Jack Morrow Hills. There is a lot of talk these days in our country about patriotism - who is and who is not a patriot, how one must behave and believe to be a patriot et cetera. The Marion-Webster Dictionary defines a patriot simply as one who loves his or her country. For me this raised the question - what is a country? In my mind a country is its people, its cultures, its government, and among

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other things and maybe most importantly its place and places. The land, its nature, its plants and animals, its habitat, its history, its spirituality and so much more without which we would not be or have a country. And so I consider all of you who have been in this struggle to protect this wonderful place as environmental and conservative patriots. What greater love of country could one express than to care for and protect and conserve this country's place on this good Earth. I think about and appreciate all the long hours and powerful committed energies you have given to care for this land, specifically the Jack Morrow Hills. I think about people like Erik Molvar, Jeff Kessler, Mac Blewer, and others, so many others, who have walked the land, done inventories, marveled in its beauty and uniqueness, smelled it, heard it, slept on its softness, and spoken and written of its immeasurable value. You are, for the most part, people who live and work in Wyoming and are perhaps supported by others around our country and the world, but not outside agitators who came here to stir things up. You make no appreciable monetary gain for your efforts. You are people who love and appreciate the natural world and believe there are still some places that have to be preserved because of their intrinsic values. The Jack Morrow Hills is such a place. So I want to thank those of you who are here tonight and those who are not who have been in this struggle to protect the Hills. And, I want to hope and pray that there will always be patriots like you to carry on this important struggle. Thank you.

Ian Trefethen
656 N. 14th Apt. B
Laramie, WY 82072

Just briefly I wanted to say that I think the Jack Morrow Hills should be protected both because development would disrupt wildlife and is disrespectful to some sacred sights to Native Americans. So I would like to see oil and gas drilling kept out of there. I would personally like to see it kept out of everywhere, but especially the Red Desert and Jack Morrow Hills. Thanks.

Mike Oxley
716 Renshaw St. #4
Laramie, WY 82073

My comments are fairly brief but as a member of the public and this is public land of course I believe that it should be managed for the public interest. As a Wyoming citizen I have seen too often that public land is not managed for public interest, but rather is managed for the interest of a small group of people essentially private interest for private profit. It doesn't help the citizens of Wyoming. Therefore, I think this land should be protected for the citizens of Wyoming both for current benefits and the benefit of future generations. I also believe that it is crucial that we understand the financial value of places like this, but there is also aesthetic value. And it is essential that we protect that for future generations as well. Thank you.

Michelle Barlow
718 S. 5th St.
Laramie, WY 82070

I am representing myself tonight. I have had the privilege of traveling in the Red Desert, just two times so not as much as many of our Red Desert rats as they are affectionately called have. Most recently I traveled to the Red Desert two years ago. And it was a very significant trip for me. I traveled with a small group of Wyoming residents and a large group of goats. They were

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domesticated goats and they were carrying our water and our sleeping bags as well as other gear. The reason the trip was so important to me, as an individual, is because my father had died just two months before our trip and he was a ranger in northeast Wyoming and a conservationist. And he was invited, but couldn't attend giving his passing. So my mom spent four days together in the Red Desert and it was a very healing experience. I guess the point is it is a place of incredible beauty and vast spiritual, innate powers. And I can't imagine not having that place for people like myself (recreationists and wildlife lovers and nature lovers) to go and just experience the wildness of that place. So as a tribute to my father - I would like to mention one more thing, just before he died he sent me a list of conservation achievements in part achieved by the National Audubon Society and I would like nothing more than to receive (as an Audubon member), to see in a year or so, another reprint of this kind of brochure with (the Audubon Society isn't terribly active in this particular protection effort), but I would love to see another date added for the protection of the Jack Morrow Hills. Having said that, I will try to be more academic, which won't be as heartfelt. But, I really believe that democracy works best when the citizens with their power is vested and guided by ethics that balance the pursuit of self-interest with a commitment to the common good. And, as a final note to emphasize the American public, we all get incredibly inexpensive and abundant oil and gas from our current oil and gas development system. But people, we need more than cheap oil and gas we really need vast expanses of wildlands. For that reason, I urge the BLM to protect the Jack Morrow Hills.

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Larry Jansen
712 S. 2nd St.
Laramie, WY 82070

I just want to speak very briefly on support of preserving the Jack Morrow Hills. Quite specifically the wildlands, wildlife, the sacred sights, and historic trails of the area need our protection. Quite specifically I am speaking in support of the citizen's wildlife and wildlands alternative and to enter that into record. It lists its points as to allow:

- for responsible recreation, hunting and grazing, for off-road vehicle use and access to public lands;
- to ask for the trade or buy-out of mineral leases in the area;
- to prohibit all new oil and gas leasing and large scale mining activities;
- to prevent new roads and developments in roadless areas;
- to increase the size of the Wilderness Study Areas by recommending the citizen's proposal boundaries;
- to establish new Wilderness Study Areas for lands identified as qualifying by citizen's inventories;
- to recommend that all deserving wildlife Wilderness Study Areas and wildlands be designated as Wilderness by Congress;
- to protect Native American holy sites and historic landmarks such as the Oregon Trail; and
- to insure the long-term survival of the Red Desert elk, the pronghorn/antelope herds and other wildlife.

Thank you.

Lesley Wischmann
712 S. 2nd St.

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Laramie, WY 82070

I'm a western historian and a very active member of the Oregon-California Trails Association and it is really disappointing to me to see the empty "reserved for BLM" seats here. I speak for myself I don't speak for OCTA (the Oregon-California Trails Association), but I know that I am speaking for an awful lot of members of the Oregon-California Trails Association. We are scattered all across the country, in all the states, and in seven foreign countries who can't be here. The trails often get overlooked in this decision and I can understand why that happens. I mean they are just some ruts in the ground and people don't, a lot of people, don't think much of them. But, there are those of us who absolutely treasure those. And I think that area is especially significant because without South Pass the westward immigration would not have happened. It would have simply been impossible and therefore the United States would have been settled in a very different pattern and in a very different way. And every time I am around south pass, obviously I am not a great hiker, I am not a great camper, I can hardly walk, but I do get out on trails and I do go up there and it is an amazing thing to stand up there and to be in that place that is still so empty and still so much like it was 150 years ago. And to be able to look around and know that you are seeing what the immigrants saw when they did that. And when you go back and look at some of these diaries it is an absolutely amazing place for them because for one thing they can't believe they are crossing the Continental Divide in that area. But they are extremely conscious of the wildlife and gorgeous scenery around them. Even though they are totally exhausted and they want to get on their way and we simply cannot replace those. Every square inch of trails that is lost is lost forever. And if you have ever taken a child out there and you see their faces when they realize they are standing where those pioneers that they have read about and studied in their schools where that is where they were. You know the magic of being able to do that. It is simply a place that cannot be replaced ever. If we lose it its gone forever. And that area is just too special. We've got so much drilling going on in this state and so much proposed and at some point we have to say, these are our lands and we value it for more things than just for what is under the ground. And one of the things that we value it for is the scenery and the historic trails. And so I just want to say, please let's protect the Oregon, the California, the Mormon Pioneer, and the Pony Express National Historic trails because there definitely something we owe to the generations that come after us to make sure those are there for their future. Thank you.

Bart Gerts

Just briefly I speak for myself but also I am an atmospheric scientist and incidentally I am largely funded, as many people in Laramie may well be, through state funds. The state is supported by some extent by the oil and gas exploration. Nevertheless, I think this is an important issue. One concern that I have is that the assessment of the environmental impact of oil and gas exploration - the Red Desert, for instance, is well known to have well defined and long lived inversions in the winter, which trap pollutants and if coal bed methane is being drilled then that also involves water. That water, when it is released at the surface, it is not going to go anywhere. It is a closed basin and there is obvious concern about the input of minerals to the surface. What will that do to the ecology? I would press for a thorough and scientific environmental impact assessment involving all aspects of the exploration before it is even being considered at the exploratory level, leave alone for further development. That is all thank you.

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Riley Hopeman
910 S. 6th St.
Lander, WY 82520

I am from Lander, Wyoming. The Red Desert is pretty much my back yard. I have grown up there. I have always gone out there. I have grown up in the place. It is just one of the most amazing places you can go. It is unlike any other place in Wyoming let alone the western states. You can go camping up in the mountains anywhere in Wyoming, but you really can't get that feeling from the Red Desert. That is why I push for the preservation and conservation of the Jack Morrow Hills. I also work for Lander Llama Company, which I don't speak on behave of right now. But we run wilderness pack trips into the Red Desert. And the Red Desert has such a wide season that we can run our trips out there and it is just an amazing place. It just baffles me that someone can try to develop on it because it truly is one of the most amazing places. And, I can't believe the BLM is gonna try and push something like this. Thank you.

Lisa Dardy McGee
465 N. 3rd # 1
Laramie, WY 82072

I just came tonight to express my concern for the oil and gas development. I am very opposed to it in this area especially. I am disturbed, in general, by the BLM decisions across the state of Wyoming, especially the coal bed methane drilling in the northwest part of Wyoming. The Red Desert, I have never personally been there, but what I have learned about it in the past few months it is really a beautiful area, unique to Wyoming and to this country. Just to reiterate a few things that some other people have said tonight. The BLM has the authority to lease, but they also have the discretion not to. And I think that if they are going to manage our lands for multiple use they should lean more toward the side of non-extractive practices and protect the last few remaining wild places that we have. Thank you.

Joy Owen
814 S. 4th St.
Laramie, WY 82070

Hello, my name is Joy Owen. The Jack Morrow Hills is home to a myriad of wildlife and rare plants that deserve protection. In addition, it holds a unique landscape. I would like to see the Jack Morrow Hills protected from oil, gas and coal bed methane drilling. The study area, which encompasses over 600,000 acres, is a small amount of land to save in comparison to the many acres being exploited in the Red Desert. Because I haven't been to the Jack Morrow Hills, but I have seen many pictures, my value of it is an existence value. I just hope that the BLM will do the honorable thing and protect this unique and beautiful place. Thank you.

Jack Clinton
406 S. 12th St.
Laramie, WY 82070

I have driven through the Desert quite a few times. I have driven the roads between Lander and Rock Springs and I have been through the Kill Pecker Sand Dunes. I really think it is a shame to even consider this area for development. Also, I have been to the Powder River Basin and personally after that development has been done it is gone. What we are going to have up there is

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a vast, unpatrolled, rural brown field. A land that will largely be useless, it will even be devalued for grazing. Also, if we go out into the Red Desert and the Jack Morrow Hills - for every mile we are going to create another mile of spears and turnarounds and parking areas. And it is also going to invite vehicle abuse. Not on part of the companies doing the drilling but on people that see roads out there and they are not going to be worried about creating another road or another spear or another turnaround. Also this is a vast area and it will be largely uncontrolled and unregulated for off-road vehicle abuse. And, these companies that are going to drill there are going to bring this abuse into the area. If anybody here has been to a lot of the petroleum developed areas between Rock River and Rawlins you'll notice that there is very little regulation in these desert areas. People consider the land largely useless and when these companies leave they take what is valuable and they leave the rest. And the BLM seems very remiss in their abilities or their desires to try and do anything to make these companies run a tighter ship. Also they are going to spread a lot of the invasive grass species. What really devalues the land in a lot of these areas is grass, like cheat grass. And, a lot of invasive species further devalue the land and devalue it even for grazing. This land, if they develop it as high of impact as they want to in some areas, is going to be completely devalued when they are gone. And they will be gone and they won't even give us so much as a kiss good-bye. Thank you.

Merav Ben David
35 Black Elk Trail
Laramie, WY 82070

I am a wildlife ecologist and I am representing myself here. I think the main problem we are facing all over is that we don't put the right value on nature. It is very difficult to put value on nature. And, in many cases we realize what the value of nature was only after it is too late. Usually it takes a long period of time for us to realize the damage we have caused. We have done that through the ages all over the world. I am originally from Israel. I grew up in the desert. I only been through the Jack Morrow Hills once, but it looks like a desert I know very well. And I know very well that once we touch the desert it is very hard to go back. Its actually probably impossible unless a major ecological catastrophe happens such as a major earthquake or something like that. That is the reason I would like to encourage the BLM to conduct more thorough studies on the potential impacts, the long term impacts of develop of the Jack Morrow Hills before any development or exploration are furthered. Thank you.

Jason Lillegraven
2443 Overland Road
Laramie, WY 82070

I'm representing myself, but I am a vertebrate paleontologist. I have been out in the Jack Morrow Hills many times to collect fossils. It is a great place for that. I have written on numerous occasions to the BLM about these issues in all honesty I can think of nothing new to say tonight that hasn't been already said many times. Except, perhaps, to say that the resources that the petroleum companies would like to go after are not going to rot down there. They are going to be maintained. I think that we should show enough wisdom to provide for resources such as these for our great grandchildren and beyond, if they are necessary. I feel that those resources are really not at this point necessary and I think we should leave the land alone as much as we possibly can for their benefit. Thank you.

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State Senator Mike Massie
1209 W. Hill Rd
Laramie, WY 82072

I represent Senate District nine, which is roughly 60% of Laramie. I wanted to hear what many of my constituents and folks from outside of my district had to say before standing up and giving some of my comments. This area means a great deal to me personally just based upon my experiences. I lived for seven years in South Pass city, which is on the very edge of the Jack Morrow Hills. So I have been out there quite a bit. I have hunted and fished and camped and fallen down a few times out there. I have hiked and biked and drove around out there. And have did something that probably nobody else in this room did and that is I actually drove out there one time on a rail repair car on the railroad that used to go through the Jack Morrow Hills. It is an outstanding area and the folks here have testified that tonight and that is absolutely true. The outstanding vistas, a great deal of peace and tranquility for anyone who goes out there and stays for more than just a few minutes. You will immediately be enveloped by the incredible quiet out there in nature. It is also one-half of a really interesting ecosystem out there. And that is a desert mountain ecosystem that transitions very quickly just within a couple of miles from desert into mountain. As a result it is a rather unique ecosystem and a fragile one as well. And one that clearly needs to be preserved and can be easily damaged. As a result of this rather unique characteristic of the Jack Morrow Hills and the areas around it it supports a great deal of wildlife - deer, elk, and antelope among many other types of species are supported out there. Now most of the state of Wyoming and particularly most of the BLM lands, a majority of the BLM lands, are open for oil and gas development. And indeed most of them should be open for oil and gas development.

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Developing these resources is very much in everyone's interest, not only here in this room, but for the entire country. So it is appropriate for that to happen. But also the Bureau of Land Management, like other management agencies, need to understand that there are some areas that have higher values than just simply what we can pump out of the ground. And I think that that is clearly the case with regard to the Jack Morrow Hills. It is a very special area and it is one of the relatively few in Wyoming. And as a result as the BLM develops its management plan and the one that they presently developed is really insufficient, but as they write and consider their management plan they should make the wildlife values and the environmental values of this very special area a priority. And that is other types of resource considerations need to be secondary to the preservation of this unique area. The present document and grazing through it and sometimes glazing through it is not very adequate in that regard. It talks occasionally of protection, but does not offer any kind of detail on how they are going to do it. Instead it seems to come up with criteria or with a goal of developing oil and gas and then trying to fit everything else around it. And to me that is really backwards. Instead what needs to be done is that this area needs to be preserved and believe me I have been through most of this area, there are some disturbed areas, there are some areas out here in the Jack Morrow Hills that could be developed for oil and gas but they are few and far between. So, balancing can be done in this area. But, the priority needs to be the preservation of this unique area, the preservation of the ecosystem and the wildlife and then the oil and gas development fitting around it when it can. And the management plan needs to be much more specific on how they are going to protect these very important values. So when we are talking about the Jack Morrow Hills we shouldn't be talking about roads and oil and gas development instead we should be talking about quality of life, we

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should be talking about the Oregon and California Trail and the people that came before us and we should be talking about how we are going to preserve that area for the people who come after us. Thanks.

Aaron Roe
136c Downey Hall
Laramie, WY 82070

I am just here to talk about my dislike of oil and gas development on the Jack Morrow Hills and the entire Red Desert. As I can see it there is no true justification for this development in light of the unique landscape, archeology and ecology of the area. Instead they need to be working to preserve the habitat and all the other unique features that I have already mentioned. I believe we need to stop any new leasing and trade off old leases. And, we also importantly need to increase the size of Wildlife Study Areas and establish any new ones that are deemed fit. Everything else has pretty much been said by everyone in here. So, thank you.

Mark Jenkins
1102 Grand
Laramie, WY 82070

I am a resident of Laramie and a Wyoming native. And I think most of what is important about the Jack Morrow area is its wilderness qualities. There are very few places left in the United States. Actually Wyoming has some of the best and we have got to save it while we can and that is it. That is enough. Thanks.

Dan McCoy
413 S. 13th St.
Laramie, WY 82070

I live here in Laramie. One thing that I wanted to weigh in on was that a friend of mine, a close friend of mine, went around and went to these coal bed methane sites all over the state of Wyoming and took water samples last summer. One of the concerns that he was seeing was that a large amount of vegetation had grown up over a period of time and this vegetation will be able to support a large amount of wildlife or it will actually encourage wildlife growth and development. The concern that he was having is that after, in a few years, when these coal bed methane wells dry up, which they really just don't have a lot of life expectancy, there is going to be a huge population of wildlife that is not going to be able to be supported any longer and there is going to be large amounts of death due to starvation. And there really doesn't seem to be any addressing of this at all in the EIS. With that I will turn my comments off. Thanks.

Roy Johnston
200 S. 30th #47
Laramie, WY 82070

About the only thing that I can say about this is since I was ten years old my parents have taken me to the Red Desert every summer. I have children of my own that I take there now. And over the years I have seen the roads that they have built through there, which have increased to the point that a guy gets lost. I mean I know it is a desert it is a big area. But a guy gets lost from all the roads trying to go into all of the well heads. I think its time they just leave things alone. The

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impacts on the wildlife and all the rest of it is getting ridiculous. It is just getting way out of hand. There is no such thing as no place any more. And my youngest one, every time you go out there, there is always another road. Its all to go in and tap the resources of a basin that if no one has actually gone out there and spent a half a day to just go and walk and just walk through it and just see what is there. Most people drive through it and say it is just a desert. Yes it is a desert, but somebody needs to go look and see what is there. And I am not a biologist or anything I just think it is time, over the years I have lived here all my life, that they start leaving things alone. I wish the BLM would reconsider what they are doing. I don't think there has been enough study on any of this to go in and go in and keep tapping these resources especially the coal bed methane thing. I don't think they near enough about it to keep going on with it. We need to try and save some of it. That is all I have to say. Thank you.

Dick Naumann
1251 Inca Drive
Laramie, WY 82072

I live here in Laramie. I am a relative newcomer to Wyoming. I have only been here since 1991. And I don't belong to any organizations, but my church. So this is an opportunity to represent nobody but just one person. So I am not ganging up based on my belonging to this group or that group or the other, but over those 11 years that I have lived in Wyoming I've been on the Red Desert, the Jack Morrow Hills area particularly, four different occasions. Once I went to visit an undergraduate student who was doing a research project there as a part of my work with the University at the time and I spent a couple of days following him around. He was doing a noxious weed survey. The other times I was there for my own recreation and did a little grouse hunting. I went there with my father and my son. That is the only time they had been there, but it was a terrific memory for three generations of us. I don't know if we will ever do that again and that is okay. But like the previous gentlemen said if you get out of your car and you walk for half a day it is amazing. I grew up on Walt Disney back when it was a program worth watching. Many of you will remember the 'Living Desert', it was a feature length nature film. If you walk across the Jack Morrow Hills area and if you have ever seen that film you just see it again. And it is amazing what is out there once you leave the road. I was impressed by the number of roads that were out there. There are necessarily too many of them. And I think the rush to develop this area for energy is misguided. If we need those resources that badly now we will need them worse in twenty years or fifty years or a hundred years and I think just from the standpoint of rushing to develop it I'd say that is way premature. So I see a lot of characteristics in terms of the very delicate balance of the game species and the non-game species that are out there and the expansiveness of the unique habitat that this represents no more broken up than it is already. And to me the value we have, the opportunity we have to conserve this in a much more aggressive manner than most of the proposed plans that I have read about, we need to take that opportunity and protect it and conserve it as much as possible at this point in history. I am increasingly concerned about where the pressures come from for development and they don't come from the average guy on the street. They come from big business, big money, big politics, and I appreciate the opportunity for the average person to get up and make a statement like this. As I close I want to reiterate that I don't belong to this society or that society, the NRA, the Audubon, none of it but I feel strongly that this is development is ill-considered and I oppose it at this time. And I want to thank the people who made the forum possible here tonight. Thank you.

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Bill Baker
4209 Navajo Drive
Laramie, WY 82071

Hi, I am Bill Baker. I am a plant ecologist and I just wanted to say a little bit about the ecosystems that are there and that are part of Wyoming. I have been doing scientific research recently on semi-arid ecosystems, particularly in western Colorado, but I am familiar with this general area. For our ecosystems many of them have been in place for several thousands of years and I suppose in some senses the Bureau of Land Management and other agencies should really be doing planning on that sort of time frame. These systems have been there a long time and we need to think about the repercussions of what we do over a very long time frame as well. Many of our semi-arid ecosystems in the west unfortunately now are collapsing. In part because of the introduction of non-native plants, weeds. A number of people have mentioned the issue of roads - in a recent study by the US Geological Survey has suggested that roads are in fact the major conduit for the introduction of these non-native plants or weeds. They are serious problems in some semi-arid ecosystems like in the Red Desert. What we are seeing in the Great Basin over to the west are the invasion of things like cheat grass, a European weed that is an annual that is able to out-compete the native plants that are there. Unfortunately it is also extremely fire prone and now these areas are burning at very high rates on intervals of 10 to 20 years. And, the native plants that live there are simply not able to survive under those conditions and so we are seeing a complete replacement of sage brush ecosystems in semi-arid landscapes throughout the west by these non-native plants. The conduit, the source of these weeds in many cases, is the road system that is being brought in for things like energy development and access for other uses. So my concern here is the question of risk. We have to ask the question - what is the value to society of the short term revenue that may come from oil and gas, the short term energy benefits relative to the potential of the long term loss of this whole ecosystem? And it didn't seem imaginable to us, but it really is happening to us now throughout the west. So I hope the Bureau of Land Management and other agencies will begin to think of this long time frame of thousands of years because we are at that point now of having to make a choice about what we want. Thank you very much.

Perry Wechsler
4810 Ponderosa
Laramie, WY 82070

I am a resident here in Laramie. I think I haven't heard everybody speak today, but I think most people are cognoscente that this is a unique place. I raised a couple of daughters stompin' around out there. I work at the University and I am well aware of the fact that mineral severance taxes pay a good portion of my salary. I don't believe that is a reason that I have to give up common sense though. And my common sense tells me that this is a place that is not like any other - not any in Wyoming and not any place that I have been. I have flown over it in a small plane. It is one of the few places in the US and can look down and not see a bunch of lights. That is the isolation, the desolation, and these are some of the things that aren't found anywhere else. Wyoming has to make a choice. The people in Wyoming have to make a choice here. I have heard for thirty years now, I have lived here for thirty years, that we need to diversify our economic base. Well our economic base right now continuously falls back on mineral extraction.

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Whether that mineral extraction or oil and gas extraction - sooner or later we are going to have realize that Wyoming has other things to offer than that. One of the other things it has to offer is places like this. I would urge the BLM to realize that it is not in the best interest for the state of Wyoming in all cases to exploit every piece of mineral, every gas development possible, for the short term benefit. And the BLM needs to be forward looking and realize that the economics of the state do depend on us maintaining unique places, wild places, places that the rest of us want to go to. So, thanks for everybody who put this thing on and thanks for the BLM to allow us to public comment.

Maureen Doyle
415 Shield St. #6
Laramie, WY 82072

Hi, I just wanted to say, I mean it seems silly to ruin this beautiful landscape for just some finite resource that we are only going to be able to have for a few years. That is all.

Brandon Drake
Laramie, WY 82070

Good evening ladies and gentleman. There are three points I would like to point out for why digging the Jack Morrow Hills is extremely disastrous. The first has to do with the ecology of the area. The simple fact is areas such as deserts and tundra are very fragile ecosystems. Lets say we have a group of 20 human beings trying to survive in a place and a group of a million human beings trying to survive in a place the difference of one human dying in a group of twenty will have a much disastrous impact than that of one person dying in a group of a million. Similarly in an area such as the Red Desert, which has such a low biodiversity an effect on one species can have catastrophic affects on others. It falls on a basic principle of chaos of perplexity. Life in communities often times exist on the edge. If you destroy one the chances of destroying others is much, much, much greater. So to preserve any of these species it is essential for preserving all of these species - ecologies work in groups. The second point is the incredible disparities in what we allow in BLM lands. I have myself worked for a dinosaur museum up in Thermapolis where the common plan is that dinosaur bones cannot be taken out of BLM lands because that is seen as an infringement upon nature. Now, how is it that working for science is held on a different level than drilling for oil. Well, what is much more disastrous to the group than the others? We are losing a great deal of our natural history for these incredible disparities. And I can't help but think there are larger economic reasons in these disparities than in actual concerns for the desert's well being. Third and perhaps most important to all of us here - Wyoming is one of the last great refuges of nature in America. Much of it has been destroyed in the ideas of building up these economies and it falls in this line of unidirectional progress. That there is only one way to go and that way is industrialization. It is the same reason why the homesteaders lost their lands to railroads back in the 1800s. The same reason why people are being given the equivalent of progressive governance because the world needs to progress. Globalization and inter-world markets are the only direction. As a consequence very isolated areas, such as Wyoming, that have these commodity based economies are the ones that bare the burden of all this. We should not have to bare the burden for out-of-state oil industries to supply energy to their various constituents. This is our state, this is our home. We have a right to preserve our lands in this area and we have to. What are we going to leave our children - a series of oil wells or a wonderful

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piece of nature. One of the last great refuges in this world. We are losing the rainforests, we may be losing the tundra soon, lets keep what we have here in America in Wyoming. Thank you for your time.

Sarah Egolf
Laramie, WY 82070

Hi, thank you very much. My name is Sarah Egolf I live and work in Wyoming and I think of environmentalism as long range self-preservation. For this reason I don't think we can cut off the corridors, part of which the Jack Morrow Hills falls in the middle of, that help the biodiversity of our different specie populations that migrate through this area. For this reason I oppose oil and gas drilling and coal bed methane development in the Jack Morrow Hills. Thank you very much.

Jill Walford
808 S. 9th St.
Laramie, WY 82070

Hi, I am Jill Walford. I lived here in Laramie for the past 13 years or so. I am following a lot of eloquent speakers so I feel less prepared but I would like to say that I agree and support the past five-six speakers. I have worked with Bill Baker as a plant ecologist and I totally respect his work and agree with the concerns of roads introducing non-native species, which can affect the entire ecosystem. I am extremely concerned with the wildlife species, the desert elk, the pronghorn, the grouse, and all the wildlife species there. And most of all I just have this intense value of the wildlife, the wilderness available to everyone in Wyoming, but to the plants and animals as well. And I agree with Perry Wechsler that we can't just look at the short term gain of the oil and gas development at the risk of losing what is truly valuable here in Wyoming. Thank you.

Michelle Visser
4935 Valley View Rd.
Laramie, WY 82070

My name is Michelle Visser and I'm a teacher here in Laramie and I feel like my reasons for speaking in support of creating Wildmess in the Jack Morrow Hills are more emotional based than a lot of the science that people have been talking about. But, being a teacher I feel like I am constantly trying to help my students be stewards of the land. We work on field studies and stuff at the lab school where I teach. I really came to understand the Jack Morrow Hills when I was teaching in Rock Springs for a year. I kind of feel like I need to be a steward for this area. My husband and I had a lot of opportunities to go hiking and mountain biking and see the awe of the wild horses and to hike barefoot in the Kill Pecker Sand Dunes and get a flat tire on our way to Boar's Tusk. I have very fond memories of a Christmas in which my entire family got to get together for the first time in many years and hike around in those areas and really enjoy introducing my parents to some parts of the west that I have come to love and now call my home. I am also going to become a parent soon, in the next few months, and I really want to be able to show my child these areas that I have come to love and enjoy and it will be very different if there are more roads and less wildlife diversity and more oil pumps out there. So I think for the sake of the children that I teach, for my families enjoyments and experiencing the west, and for

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our future generations - we need to keep these few wild places open and available for us to enjoy because there are so few spaces left like that. Thank you.

Ruben Mares
Laramie, WY

I am a student here at the University. I am a double major in Wildlife Fisheries Biology with Environment and Natural Resources. I was born and raised in Wyoming and I plan to stay in the state. I think from previous talkers you have had they've did some great explanations of why this area should be protected. I think scientifically and emotionally I think this place should remain to be as much as in contact as possible. I think that to run to the conclusions of extracting all the natural resources out of the area they are ruining and damaging the ecosystem, which isn't really a wise choice. I don't think it was fair that the public didn't really have much of a say in this situation and I really didn't think that it was fair that nobody showed up tonight so that everyone could have their comments heard besides the video tape. I would like to see this area protected and I am a citizen here you know so I would like to see as much care-taking of this area as possible. Thank you.

Deb Paulson
4209 Navajo Drive
Laramie, WY 82072

Hi, my name is Deb Paulson and I am from Laramie. I have lived here for about 13 years. The more I have studied decision making on public lands the more I realize that the BLM people that I have met and talked to are really remarkable people, but I have also realized that they have lived in an Alice and Wonderland world. And I mean that because I don't think you could look at developing the Jack Morrow Hills as a reasonable thing to do unless it was an Alice and Wonderland type of a situation that you are in. That is the way I feel the BLM is caught in that. To not recognize that the most precious resource we have is our public lands and clearly the most precious resource we will have in the future is the value of undeveloped land. It is our fastest disappearing resource I would say certainly more irreplaceable than oil and gas and if we don't recognize that as a valuable resource I think we will look back at these decisions we are making today with unrestricted oil and gas development with great, great regret. And I think this point has been made, but I will make it again because we keep hearing it in the news that the public lands are for multiple use but I think (anybody, I know the BLM officials understand it) that not every piece of land can support all uses. And if you put oil and gas on a piece of land you can't support quiet recreation and you are not supporting the wildlife. The mitigation measures that are being taken as oil and gas takes off in this state are not nearly enough to protect the sensitive wildlife species we have - sage grouse, mountain plovers, and the big game herds that really depend on these areas. So I just really feel strongly that if the BLM cannot protect the Jack Morrow Hills what places can we protect. Its certainly a place that deserves protection. Thank you *very* much.

Steve Amstrup
1112 West 15th Ave.
Anchorage, Alaska 99501

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I am a resident of Anchorage, Alaska. I used to live in Wyoming 24 years ago and I plan to return to Wyoming to retire. I own property just over Beaver Rim from the Red Desert. I am a PhD. Wildlife Ecologist. I spent my whole life studying wildlife and that in combination with the fact that I am a Fremont County landowner I think gives me some ability to talk on this subject. My recommendations to the BLM are relatively simple. Whenever we approach this special use and somewhat exclusive use of public lands we must do so while recognizing the costs and benefits of those special uses. In the case of the Red Desert, the benefits of additional oil and gas development are those hydrocarbon resources that are going to be made available to those of us who drive cars and who fly in airplanes. And I am not going to tell the BLM don't approve any more oil and gas development because I flew down here from Anchorage in an airplane that burned a lot of fuel. And I drove to this meeting in an automobile. So I am a user of hydrocarbons. But, on the other hand, I think it is appropriate to ask what are the costs of every particular area of the developments that are going to give us those particular benefits. Of course there are the straightforward development costs of building roads, of setting up pipelines and things like that. Those are easy to calculate, but the less tangible costs are those that involve the other resources - the plants, the wildlife, the health of the mineral and water cycle and in short the overall health of the landscape. Those costs as a previous speaker already stated are very difficult to assess and often our situation is that we pave paradise and put up a parking lot and don't realize what we have done until it is gone. And I don't remember the exact words to that old song, but that is basically the gist of a lot of developments that have occurred across the country. And what I have heard and what I have read of the existing assessments that have been done of the total environmental costs for additional developments in the Red Desert and particularly the Jack Morrow Hills area - those assessments are woefully inadequate to reveal the long term and accumulative costs of those added developments. So my request is simply that I want to ask the public servants who are reasonable for managing the Jack Morrow Hills to more thoroughly evaluate all the costs that would be involved with additional hydrocarbon development there before they finalize any development plans. Thank you.

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Cerrina Smith
311 W. Powell Rd.
Cheyenne, WY 82009

My name is Cerrina Smith. I don't think that I would feel right about leaving here without speaking. Initially I was just going to be a supporter and sit down and listen. I am not a native of Wyoming. I am from Virginia. I am a trainer for the Air Force at FB Warner Air Force Base. I have visited the Red Desert area and I was truly awed by the experience and uplifted by its pristine beauty. We need a hermitage/a refuge. We need it for wildlife. We need it for us. I think there are so few places left in our nation that are inundate with crowds and people and pollution and noise and that is sad and this is one of the few places that is left. I am opposed to any disruption to the sensitive wildlife habitat and I ask please do not make the mistake of destroying this magnificent and magical place. Thank you.

Deb Donahue
233 Hwy. 10
Jelm, WY 82063

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My name is Deb Donahue. I have a masters degree in Wildlife Biology although I haven't practiced in that area for awhile. I am also a lawyer and teach public land law. And this is an area of Wyoming that I know fairly well. I have spent really enjoyable times there. I have been in Wyoming for about 16 years. I do know that the BLM has the authority, the discretion to choose where it allows oil and gas or coal bed methane development to occur and I think this is one area where it should draw the line and say no. And I will base my comments in part upon the law and in part upon my personal experience in the Red Desert. First of all I would like to point out and remind the BLM that they have a lot good information already about the resources that are in this area, but they need to remember that the statute, the Federal Land Policy Management Act, requires them to consider the relative scarcity of the values involved and the availability of alternative means including recycling and sites for realization of those values. So lets look at the two principle values involved here. Oil and gas development on the one side (mineral production) versus all of the other resources that the Jack Morrow Hills has to offer. Oil and gas can be replaced. They are not relatively scarce values certainly not in Wyoming and there are alternative means including recycling for realizing those values. I agree with the prior speaker that we do need oil and gas and we will need it for some time to come, but we have to start weaning ourselves off that need. To the extent that there are other options we should be focusing on them. There are no other options. There are no other alternative means or sites for realizing that some of the values that the Jack Morrow Hills and the Red Desert in general provide. The statute, Federal Land Policy Management Act, also requires that the BLM weigh long term benefits to the public against short term benefits. The benefits of oil and gas development are largely short term benefits, they are larger private benefits. The long term benefits that the Jack Morrow Hills has to offer, that is offering now, are those values other than oil and gas development - solitude, wildlife, habitat, primitive forms of outdoor recreation, biodiversity, habitats for rare plants, and so forth. I think those are the ones, in this balance, should certainly weigh more heavily. And I would just like to recount very briefly an experience that I had in the Red Desert that I will never forget and that is breaking down in an old truck thinking (equipped for several days in the Red Desert in the Honeycomb buttes and that area) oh well we will just head out to the main road and find somebody to pick us up. In a few hours we were fantasizing about meeting a Budweiser distributor truck. You know we thought surely that we would run into him and get a good drink and get a ride back to fix our truck. Twenty five miles later and we only went with our fanny packs and not with our outdoor sleeping gear for the night we finally made it to the main highway and the Sweetwater Gap rest stop and that is where we found help. In the course of those 25 miles I had one of the best experiences in the Red Desert or anywhere I've been and it included such things as knowing where the water sources were, which you might not if you were not familiar with the area. And I would point out that with oil and gas development those water sources can change. There can be impacts on the ground water. The quiet, the stillness, the lack of sounds, the lack of smells associated with oil and gas development all of that would change if the BLM were to allow leasing here. And one of the most poignant experiences of all was being able to smell Evening Primrose. In the dark not seeing it, but knowing it was there. I know that would not be possible if oil and gas development leasing were allowed in this area. So I hope that the BLM will reconsider. Thank you.

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C.L. Rawlins
233 Hwy 10

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Jelm, WY 82063

My name is C.L. Rawlins, like the beauty spot on 1-80 that those of you who drove from Rock Springs probably passed through. From 1978 to 19921 was employed by the US Forest Service Pine Dale Ranger District. For the last seven years of that employment I was running an air quality sampling project in the Wind River Mountains, which required us to be very high up in the southern Wind Rivers (not only in the summer time, but also during the winter time). During this period I was doing chemical and biological sampling for air quality values in the Bridger Wilderness and so I was very conscious of air quality. During this time I would also look off to the south overlooking the Jack Morrow Hills and various other parts of the Red Desert. I was quite conscious during this time of the very, very marked deterioration in the air quality. Most of which was linked to an emissions generator in southwest Wyoming. Some of these were from trona mines, others were from fertilizer plants and other sorts of facilities around Rock Springs. But a great deal of this air pollution was what they call fugitive in small sources. Essentially oil and gas drilling, the dust that comes from the dirt roads that surround these oil and gas developments and other sources that according to the Wyoming state regulatory apparatus were too small to be measured. So what we were doing in this Wilderness monitoring is we were attempting to measure the accumulative impact of all these air quality impacts. And we did, in fact in the Wind Rivers, measure some very, very acidic ph's down to 3.88, which is approaching vinegar. This was in Wilderness area. Since oil and gas development has mushroomed, just gone completely out of control since the time I was monitoring I can only assume that the air quality in this part of Wyoming has gotten considerably worse. I also think the Bureau of Land Management having primarily and affirmative responsibility to regulate this has failed rather disastrously. For example, I also incidentally (after I left the Forest Service) I joined the board of the Wyoming Outdoor Council and the Greater Yellowstone Coalition and was Vice President and President of the Wyoming Outdoor Council and was very concerned with the initial development of the Jonah Project south of Pine Dale. Initially the BLM proposed I think 503 wells for this project, which in all the mitigation measures of wildlife measures and things like this were calculated to that level of development. However, the BLM has been constantly entertaining proposing to drill during restricted periods such as in the winter and also is currently entertaining a proposal for the Jonah Infill Project, which would add to those existing 503 wells an additional 1250 wells with all the roads, with all the ancillary development that this would entail. In other words over 3 times the number of wells and up to 7225 papers of initial disturbance. Frankly, this proposal makes a mockery of the original EIS. Virtually none of the mitigation measures that are proposed in that EIS can be maintained under this level of development. And frankly my experience as a federal employee and also as an air quality monitor and also as an environmental activist with federal regulation of BLM lands has been that the BLM does not have the political courage nor the political will to hold to any sort of agreement on oil and gas drilling. Therefore, I propose that virtually the only way for the public to maintain multiple use values, in an area such as the Jack Morrow Hills, is to forestall this development before it is approved and not to approve it in an area like this. Once you start drilling in an area like this there is virtually no way to stop this intensive development and it will not be stopped. This is based on my experience over a great many years and I think it is the truth that drilling should not be allowed in this area. It is simply too precious and too loving to do that. Thank you.

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Tom Reed
1191 Granite Springs Rd
Cheyenne, WY 82009

My name is Tom Reed and I guess I am speaking on behalf of the elk. I am an elk hunter and I have been applying for 13 years to try to get an elk draw in the Red Desert. It is probably the top trophy area in the state. It is harder to draw than some sheep tags in this state and it also has an 86% success ratio for hunters that are lucky enough to draw the 120 some odd tags. This is a pretty precious resource, I think. It is very important to me and it is very important to the hunters of this state. And I think I would just urge the BLM to consider that the oil and gas may be the commodity of the present but I think open space will be the commodity of the future. And, save the big elk.

Jane Warren
1203 Park Ave
Laramie, WY 82072

I am Jane Warren. I am representing the Legislature. I am in the House District 13 here in Albany County. I didn't really come to speak I came to listen because I think part of our role in the Legislature is to hear what people have to say. So I want to compliment you all for being here and speaking because this is what it is all about. I will say a couple of points. I think as a Legislature we are looking at the state development for now and for years to come. And more than a one or two year perspective. We are trying to look at reducing our dependency on mineral industry and look at diversifying our economy and looking at other areas. Whether it be tourism, be it industry, be it environmental friendly and so on, but this ongoing dependence on this sort of mineral extraction we are keeping ourselves dependent on minerals. So we are contributing to our own problem. In my work, as a mental health therapist, we look at something called short term benefits and long term costs and I want to use that paradigm in some ways to look at this situation. What we are looking at are some short term benefits. We are going to have money, we are going to have people coming in, we are going to be employing individuals, but what about the long term costs? What about the effect on the environment? What about 15 years from now? In the Native American culture they look at whenever you make a decision you look at seven generations ahead. What are we going to look at that may seem beyond our thinking, but the decision we make today do result in consequences years down the road. So that is a policy perspective. And I think it is important that we represent the people of tomorrow not just the people of today. So I thank you all for coming this does make a difference.

Melissa Bartley
Laramie, WY 82070

I am speaking on behalf of myself today. Although I guess I have a degree in biology, which makes me a biologist. I am not going to talk about science because for every statistic or fact that I could give you BLM scientists can come up with something of the contrary. So I am just going to talk about values. I think that is really important. I am just going to share my experience in the Red Desert. In Adobe town I had just a wonderful and amazing time there and I am sure that everyone that has been there has had similar experiences but I got to see wild horses and I got to see the Evening Primrose, which someone else already spoke of and it is just a very, very beautiful place. It really breaks my heart to think that the BLM would not want to protect this

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place. I think this was already voiced earlier, but if this place is not worth protecting than what is. I don't know. I don't know what is if this place is not worth protecting. We don't need to dig a hole and develop in every little square foot of Wyoming. We need to preserve some places and this place is definitely worthy of protection. I went on a field trip two years ago with one of my classes to the Powder River Basin, which was led by BLM employees and I got to see some of the development there. And I don't want the Red Desert to look like that. And I don't think anyone wants the Red Desert to look like that. Wyoming citizens do not deserve to have their beautiful landscapes look like the Jonah field and other places where excessive oil and gas development has taken place. The BLM has a little over 18 million acres here in Wyoming and they have zero Wilderness areas. There are some Wilderness Study Areas, but there are zero Wilderness areas and I find that very curious because there are some very beautiful places in these 18 million acres. I just want to say stop sacrificing Wyoming's beautiful places for these short term gains because the BLM owes it to Wyoming's citizens to protect these places. Thank you.

Ken Kramer
514 Kearney
Laramie, WY 82070

My name is Ken Kramer. I am opposed to the fast track development of oil and gas in the Jack Morrow Hills. I don't think energy development should be the overriding management focus in that area. I think the pace of development needs to be a lot more measured and particularly reclamation of roads and surface damage needs to be addressed, probably bonded. That is the only way that air and water quality degradation can be prevented. We have seen a lot of that in the Powder River Basin and really nothing is being done about it at this point. I think current roadless areas should be protected and preserved from development, like places that have wilderness quality, need to be maintained. Critical wildlife habitat needs to be protected especially for sage grouse, elk, antelope, raptors, and endangered species. I think the preferred alternative for management needs to be much stronger protection for wildlife, wilderness, and historic resources. Thanks.

Richard Sprecher
4512 Mockingbird
Laramie, WY 82070

My name is Richard Sprecher. I'll just make a few brief points. Speaking on behalf of myself although I have lived in Wyoming my whole life. I was born in Cheyenne and have lived in Laramie for the last number of years. First point is that a conservation approach of stewardship of our state's resources of all types is to keep the parts and in the spirit of keeping the parts setting aside a small section of the Red Desert does not seem like a bad idea at all. Second point would be that the value for the state of this area is quite high. The value for oil and gas is much more modest so in terms of balancing out import it makes complete sense to me to keep a small section and the proposed area is indeed a small section. To keep a small section out is wise, prudent and frankly the proper conservative thing to do. And, I guess my third point would be that once you open it up it is really hard to go back. I think it is something to be considered very seriously. I am not in favor of going ahead at this point in time. Probably in the foreseeable

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future I can't see going ahead with the opening of this area. It just doesn't make sense. Thank you.

Erik Molvar
1008 S. 5th St.
Laramie, WY 82070

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My name is Erik Molvar. I am a professional wildlife biologist for Biodiversity Conservation Alliance, but tonight I would like to speak as an individual. I would like to tell a little about how I came to Wyoming. I was a writer of wilderness guidebooks for about 10 years. And I wrote guidebooks to National Parks and Wilderness areas from Alaska to Arizona - over the west, 13 all told. My latest one was 'Wild Wyoming'. And it got me into Wyoming and checking out the Wilderness and all the blind spots on the map. And, traveling through the Red Desert during this period it was amazing to me that in such an empty land how few blank spots there were on the map left. There are really very few places that haven't already become oil and gas fields, crisscrossed with roads and power lines and pipelines. Very few places remain in the natural condition. The way that they were originally when this country was first settled. And that is really kind of a tragedy in the state of Wyoming, which has some of the lowest population per unit land area we have one of the highest degrees of roadedness of any western state. And in the Red Desert that has manifested. The Jack Morrow Hills is one of the very few places where there still are blank spots on the map. Where there still are outstanding landscapes - national quality of landscapes. Every where else in the country they have National Parks for places like these. In Wyoming we talk about drilling them. It is a damn shame. The politicians that are in the BLM are pushing drilling in one of our last best places. They should be ashamed of themselves. This is a legacy that we should have for all of our future generations. My daughter is three years old. She made her first backpacking trip in the Red Desert when she was 9 months old. She loves the place. She experienced this area when it was still pristine. I don't want her to come back when she is in high school and see a drilling field where once she had so much fun looking at the wildlife, enjoying the scenery and that open space that makes Wyoming famous. In Paris they have the Louvre, in Rome they have the Coliseum, we have the Red Desert. And we shouldn't put, the Parisians wouldn't put an oil and gas drilling rig in the middle of the Louvre why should we be drilling the Red Desert. This last corner that remains is in pristine condition. That remains some of the most outstanding high desert landscapes in the world. Realistically the BLM ought to be taking the long view. The oil and gas is only going to provide us a few months supply for our nation and that is going to be gone forever and we are going to be left with a legacy of roads and waste and ruin. This should not be the legacy that we have in the state of Wyoming. We should do better for our kids, we should do better for our nation, we should do better for the generations that come after us, and we should protect this place. There are plenty of oil and gas fields in the Red Desert already we don't need another one. Thanks very much.

Sally Palmer
715 S. 11th St.
Laramie, WY 82070

I am reverend doctor Sally Palmer and I serve a church here. For 22 years I also teach different courses at the University of Wyoming primarily to help people look at what is wilderness, what is of nature in a spiritual value. I want to say a couple of things tonight. One is that I was called

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upon to be a special speaker in Georgia at the time that the nuclear waste was going to be transferred down there and said one thing very simply that the land is ours. And that is what I hold as a spiritual person is that you can't just simply say this is ours for this time, this is ours to hold in our own personal private possession. In terms of the Red Desert it is as if we as Americans have lost the vistas, but the Red Desert still holds it for us. When you talk to people in New York City, in Moscow, in Atlanta it is like they don't have what is right here at our fingertips. One of my chief concerns is when I was talking to one of the soil scientists for the Department of Agriculture here, his name is Dr. Jerry Shoeman, he is very concerned not just about what happens in reckless development of the land in Wyoming but also of the aftermath of it. So would speak for a great voice of caution. Not only to protect the wilderness, which is secular which has its own natural beauty. But also to protect a sense of what is for the future. It is not only ours but ours to hold and trust. That others may share its beauty. Thank you.

Katrina Esch
311 1/2 Fremont
Laramie, WY 82072

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Hi, my name is Katrina Esch. I have been struggling with what to say here. I have heard all the long time Wyoming residents talk about the beauty of the place, the spirituality of the place, the history and just the wildlife there. I am a recent immigrant to this state. I just moved to Laramie a year ago exactly. And, I moved out here from back east - from northern Virginia and from Detroit, Michigan. Where they are choking under urban sprawl. There is filth and roads everywhere. And I came out here because I was screaming for a place of clean air and open space and no roads and I don't want to see the beauty you call the Red Desert to look like what we have back east. I don't want to see that go away. And I don't want there to become somewhere people can't go to find space. Thank you.

Bill Kuestner
808 S. 9th
Laramie, WY 82070

I have been in Wyoming since 1978. I did spend quite a bit of time in the Red Desert surveying oil and gas wells in the 80s. There are plenty of roads and plenty of oil fields. I noticed what they have done around Pine Dale and Big Piney lately and there is plenty there too. It is spoiling the quality of the air and the Wind River. We have plenty of roads in Wyoming we don't need anymore. That is all.

Chris Anderson-Sprecher
4512 Mockingbird Lane
Laramie, WY 82070

I want the Jack Morrow Hills protected from oil and gas drilling and all the development that will go with that. Among other things I am concerned about the increased roads and off-road travel that will inevitably follow. I value the wild areas in Wyoming for recreational purposes, for the solitude, the quiet and beauty, and I am amazed at how little there is left.

Melanie Molvar
1008 S. 5th

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Laramie, WY 82070

I am Melanie Molvar. We moved here about three years ago and we have been to the Red Desert several times with our children. You know it is a wonderful experience to be able to go camping with *your* kids and be able to take them somewhere so close to home where you can actually go out and be in places where there is no development. We love to see the wild animals, especially the wild horses. The kids have a great time. Speaking as a mother I guess to some extent you want your kids to have the same kind of experiences that you had growing up. I want them to be able to go out and see these places. You know we drive a lot of places, we go camping and exploring in a lot of towns and areas and we see a lot of the wells and a lot of the oil development. And in some places I know that it is necessary, but I don't think it is here. And I would really like this place to stay undeveloped for my children. Thank you.

Jeff Kessler - Thanks everyone. I really appreciate you taking the time to come out. We will keep you posted. Thank you.

100,453

0 By Certified Mail, Return Receipt Requested
Article Number 7001 0320 0000 9866 7856

By FAX to 307-352-0329

By EMAIL to <wymail_ jmhcap@blm.gov>

May 23, 2003

Renee Dana, Team Leader
Bureau of Land Management
Rock Springs Field Office 280
Highway 191 North Rock
Springs, WY 82901
Re: 1610 (930) Jack Morrow Hills CAP - Citizens' Wildlife & Wildlands Alternative

Dear Ms. Dana:

0 On behalf of the tens of thousands of businesses, organizations and individuals that have spoken and written in support of preserving the Jack Morrow Hills area of the Red Desert, including the undersigned, I am pleased to submit for your consideration the Citizens' Wildlife and Wildlands Alternative, attached as Exhibit A, for the Jack Morrow Hills Coordinated Activity Plan and Supplemental Draft Environmental Impact Statement.

We respectfully request, in accordance with the Council on Environmental Quality's regulations implementing the National Environmental Policy Act, 40 C.F.R. 1500.1 et seq., that the Citizens' Wildlife and Wildlands Alternative be included in the Final EIS and be given full consideration and careful review commensurate with the area's outstanding natural features.

As you know, public comment -- measuring in the tens of thousands -- on the JMH draft plan strongly favors maintaining and protecting the cultural and biologic integrity of the Red Desert's Jack Morrow Hills area. With one of our nation's largest unfenced areas outside of Alaska, the area's big game populations are among the largest and healthiest in the lower 48. It contains one of the most diverse and numerous concentrations of raptors anywhere. Significant cultural resources, including some of the the largest intact remnants of the Oregon and Mormon Pioneer trails, the mining camps of South Pass, and Native American holy sites further distinguish the area. Seven wilderness study areas are found here, and are treasured for their aesthetic beauty and the recreational opportunities they afford.

During the summer and fall of 2000, unprecedented numbers of citizens from all across the United States and abroad urged the BLM to adopt the Citizens Red Desert Protection Alternative. Incredibly, the BLM flatly rejected the citizens' request, deeming elements of the Citizens' Alternative "unreasonable." See JMH SDEIS at 2-3. Not only did this decision to dismiss the alternative violate NEPA, it ignored specific direction from then Secretary of Interior

Bruce Babbitt who admonished the BLM in a December 22, 2000, memorandum (attached as Exhibit B) to "protect this unique area and its outstanding resources" by proposing "the conservation alternative as its preferred alternative."

Although Secretary Babbitt elected not to identify the precise elements that should be contained in a conservation alternative, it was clear from the tone and content of the Secretary's letter that the alternative would, above all else, provide for the protection of the unique and irreplaceable natural values in the planning area. Indeed, he recognized this as the "paramount concern."

The Secretary's memo was transmitted to the BLM Director along with a legal memorandum, with which the Secretary expressly concurred, drafted by then Interior Solicitor John Lesly. See Exhibit C. Among other things, the Solicitor's memo criticized the BLM's draft EIS for "erroneous assumptions" and failure to include and clearly identify an appropriate conservation alternative. According to the Solicitor, the BLM's adherence to faulty assumptions caused the agency to reject reasonable management options advocated by the public, such as closing some or all of the JMH CAP planning area to further oil and gas leasing and hard rock mineral entry. The Solicitor couldn't have been more clear in saying that "it was not appropriate for the DEIS to refuse to consider such actions." "Under these circumstances," he wrote, "it is not 'unacceptable' -as the DEIS assumes - to close the planning area or a substantial planning area to new mineral leasing. Instead, it is a reasonable alternative that ought to be carefully considered in the NEPA documentation." Unfortunately, despite the specific recommendations for improving the DEIS, the supplemental DEIS suffers from many of the same serious flaws.

We are confident that the Citizens' Wildlife and Wildlands Alternative corrects the legal deficiencies identified by the Solicitor in the initial draft EIS. But more importantly, it presents a plan and a vision for the Jack Morrow Hills area that enjoys overwhelming public support and one that provides for continued and sustainable multiple use of the area for generations to come. We believe it represents the best choice for management of this spectacular area and urge you to adopt the alternative in the final Record of Decision and Green River Resource Management Plan amendment.

Very Truly Yours,



Tom Bell
Lander, Wyoming

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Marisa Deane
Friends of the Red Desert

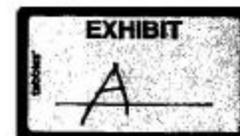
0 *Citizens' WILDLIFE AND WILDLANDS ALTERNATIVE*

INTRODUCTION AND BACKGROUND

Located in the heart of the eight million acre Greater Red Desert, the 622,330-acre Jack Morrow Hills Study Area contains one of the most impressive combinations of historical, natural and scenic values in the American West. The area contains seven Wilderness Study Areas - the largest cluster in Wyoming; the largest desert elk herd in the world; part of the largest migratory game herd in the lower 48 states - the 50,000 strong Sublette pronghorn antelope herd; one of the last strongholds of the greater sage grouse in the Rocky Mountains; the largest active sand dune system in North America; numerous American Indian holy sites such as the White Mountain petroglyphs and the Boar's Tusk; and historic icons such as the South Pass Landscape and the Emigrant Trails. Additionally, over 350 wildlife species inhabit the Jack Morrow Hills Study Area including ferruginous hawks, golden eagles, mountain lions, black bears and coyotes. Of these wildlife species, many are species of concern including burrowing owls, mountain plover, pygmy rabbits, flannel mouth suckers, eastern short-horned lizards and Great Basin gopher snakes.

9 The Jack Morrow Hills area is home to a large number of rare and imperiled plants and plant communities. 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. The area also contains the only known occurrence of the basin big sagebrush/lemon scurfpea association in the world.

Citizen-led efforts to protect the Red Desert date back to 1898 when Lander sportsman Dr. Frank Dunham and other Wyoming hunters tried to designate much of the desert a Winter Game Preserve. This first conservation proposal included a large swath of land through the Greater Green River Basin all the way up to Yellowstone National Park, encompassing the migratory corridors used by elk, antelope and deer to travel back and forth between the desert and the Greater Yellowstone Ecosystem. In 1935, Wyoming Governor Leslie Miller unsuccessfully attempted to preserve a portion of the desert as part of a larger nationwide "Western Trails National Park" which would have protected land adjacent to the Emigrant Trails. In 1968, local rancher and wildlife advocate Tom Bell



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courageously attempted to advance a Congressional proposal to designate part of the desert as a North American Antelope Range. There have been other efforts over time to protect the area as a Wild Horse Refuge, a National Wildlife Refuge, a National Park, a National Monument and a National Natural Landscape. Although former President Bill Clinton would likely have designated the Jack Morrow Hills Area of the Red Desert a National Monument in 2001, he was unable to do so due to a 1950 amendment to the Antiquities Act forbidding the further expansion of national parks and monuments in Wyoming without full Congressional approval. Today, there is a growing movement to protect the Jack Morrow Hills Study Area and other parts of the Red Desert as a National Conservation Area.

HERITAGE RESOURCES

The Citizens' Wildlife and Wildlands Alternative provides enhanced protection for culturally significant areas revered by Native Americans.

The Jack Morrow Hills Study Area is rich in nationally significant cultural and historic resources. The area is home to such icons as the South Pass Historic Landscape, the Outlaw Trail, the Pony Express, Point of Rocks - South Pass Stage road, Mormon Pioneer, Oregon and California Pioneer Trails in addition to such sites as the Tri-Territory Marker- the juncture of the Oregon Territory, the Louisiana Purchase and the newly formed Mexican Republic; and the Oregon Buttes- the gateway to the Great Divide Basin. Legendary figures such as Chief Washakie, Butch Cassidy, Jedediah Smith, Jim Bridger and Kit Carson all strode this landscape and the wagon ruts left behind by over 450,000 pioneers emigrating through South Pass may still be seen today in some locations.

Although only 2% of the study area has been surveyed for resources of cultural importance, the area is home to "cultural evidence from some of the earliest inhabitants of the North America continent and are some of the most intact manifestations of such . archaeological evidence known anywhere on the continent." Volcanic formations in the study area such as the Boar's Tusk are central to Shoshone creation mythology and holy sites and areas of cultural importance abound through the area, including the Indian Gap Trail, Steamboat Mountain, White Mountain Petroglyphs, Joe Hay Rim, Killpecker Creek and the Sands. Rock art, burial sites, cairns, tipi rings and campsites anywhere from

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several hundred years old to several thousand years old have been identified in the Jack Morrow Hills Study Area. It should be remembered that the vast landscape of the Red Desert, with its shifting sand dunes, flat top mesas, volcanic cones and mountain vistas, has sacred meaning to many Native American Indian Tribes and can not necessarily be separated into pieces and parcels. The Shoshone, Ute, Arapaho and Crow used the area for hunting and gathering of medicine, as did other tribes.

The Citizens' Wildlife and Wildlands Alternative adopts the management objective for Heritage Resources described in the BLM's Preferred Alternative: "The planning area would be managed to protect important heritage resources (cultural, historic, archaeological, and unique geological features) while allowing for educational research and appropriate interpretive uses."

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.

Specific management prescriptions for respected places include:

- Consultation 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.
- VRM Class I (for pristine, undeveloped sites); VRM Class II (for sites with minor intrusions or existing development).
- Exclusion area for pipeline ROWs, utility lines and other linear features.
- Communication sites prohibited.
- Existing oil and gas leases remain under suspension pending site-specific analysis to determine if development can occur without adverse impacts. Lease exchange and buy outs pursued.

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- Surface disturbance and disruptive activities would be prohibited within viewshed or three miles of respected places.
- Federal ownership retained.
- Withdrawn from locatable mineral entry.
- Closed to leasable solid and fluid minerals.
- Closed to mineral material sales.
- Seismic exploration using vibroseis buggies and other ground disturbing techniques prohibited.
- Increased agency enforcement to ensure artifact poachers are deterred or prosecuted.
- Indian Gap Trail and viewshed is surveyed, mapped and added to National Historic Trails system, achieving level of protection equivalent to Oregon, Pony Express, Mormon Pioneer trails.

The Citizens' Wildlife and Wildlands Alternative provides increased protection for nationally significant trails like the Pony Express Trail and the Oregon Pioneer Trail.

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Heritage resources not specifically addressed above would be managed in accordance with JMH Alternative 2.

AIR RESOURCES MANAGEMENT

The Citizens' Wildlife and Wildlands Alternative gives priority to the restoration and protection of air and water quality.

The Citizens' Wildlife and Wildlands Alternative adopts the BLM's management objectives for air and water quality. For air resources, that objective provides: "The planning area would be managed to maintain and, where possible, enhance present air quality levels and, within the scope of BLM's authority, minimize emissions that may add to acid rain, cause violations of air quality standards, or reduce visibility."

However, unlike the BLM's alternatives, the Citizens' Alternative adopts aggressive management actions implemented in close coordination with state and federal regulatory agencies to achieve the stated objectives:

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- 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.

WATERSHED RESOURCES

The Citizens' Wildlife and Wildlands Alternative gives priority to the restoration and protection of air and water quality.

The Citizens' Wildlife and Wildlands Alternative adopts the management objective for watershed resources: "The planning area would be managed to maintain or enhance land and water resources using ecological principles and science-based performance criteria," and adds a number of controls and prescriptions to restore and maintain watershed health and ecological functions.

- Total Maximum Daily Loads would be established under section 303(d) of the Clean Water Act for all perennial water bodies in the planning area to ensure applicable DEQ water quality standards are met.
- Herbicide loading areas would be prohibited within 1000 feet of water sources, wetlands, riparian areas, floodplains and special status plant species.

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- Site-specific activity and implementation plans are developed for riparian areas not meeting proper functioning condition.
- Noxious weed and chemical treatment guidelines in Appendix 8 are revised to provide the highest degree of protection for wetlands, riparian areas, surface waters and sensitive plant and aquatic species. Minimum buffer for such resources is 500 feet for ground application, 1000 feet for aerial spraying.
- Wetlands and riparian areas would be exclusion areas for surface disturbing activities. Exceptions granted on case-by-case basis for environmental restoration projects.
- Areas within 500 feet of wetlands and riparian areas would be avoidance areas for surface disturbing activities and permanent structures.
- Special biological studies of the Sands' unique dunal ponds and wetlands' flora and fauna would be initiated by BLM. Appropriate measures to protect these dunal flocks would be initiated if overgrazing, off-road vehicle use, recreation or other activities threaten their ecological integrity.
- New permanent facilities and structures would be prohibited in 100-year floodplains, wetlands, and riparian areas. Linear crossings would be allowed only in previously disturbed sites or designated ROW corridors.
- Areas within 100 feet of the edge of the inner gorge of intermittent and large ephemeral drainages would be avoidance areas for surface disturbing areas.
- Minerals mining and energy development activities would be prohibited in aquifer recharge areas.

VISUAL RESOURCE MANAGEMENT

The Citizens' Wildlife and Wildlands adopts the BLM's management objectives for the protection of visually sensitive areas: "To maintain or improve scenic value and overall visual quality by managing 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.

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- National Historic and Scenic Trails and viewsheds (5 miles either side) managed VRM Class I.
- VRM Class I (for pristine, undeveloped sites); VRM Class II (for sites with minor intrusions or existing development).
- 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 I; all other ACECs would be designated VRM Class II.
- Eden Valley managed as VRM Class III.
- All remaining areas managed as VRM Class II.
- Except as otherwise provided, no areas in the Jack Morrow Hills planning area would be managed as VRM Class III or IV.

LIVESTOCK GRAZING

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The Citizens' Wildlife and Wildlands Alternative promotes responsible livestock grazing.

Livestock grazing would continue in the planning area as described in the BLM's Preferred Alternative. Emphasis would 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.

- All grazing allotments must meet the Fundamentals of Rangeland Health, the Properly Functioning Condition of riparian areas, and other statewide standards and guidelines.
- The condition of all allotments and riparian areas in the planning area will be reviewed at least every three years for compliance with the statewide standards and guidelines. Rehabilitation of those allotments or riparian areas that are not in compliance with these requirements will be instituted no later than the start of the next grazing season. The adoption of rehabilitation measures will be a public process.

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- ~ Evaluations required under the National Environmental Policy Act and the Endangered Species Act for grazing activities on the Jack Morrow Hills will be completed within three years of adoption of the final CAP.

RECREATION RESOURCES MANAGEMENT

The Citizens' Wildlife and Wildlands Alternative promotes responsible recreation, hunting, vehicle use and continued access via existing, designated roads.

The Citizens' Wildlife and Wildlands Alternative adopts the BLM's management objective for recreation resources: "The planning area would be managed to accommodate opportunities for recreational resources while protecting other resource values and minimizing conflicts with other resource uses."

Except as indicated below, the Citizens' Wildlife and Wildlands Alternative adopts the BLM's Preferred Alternative as the best management approach for recreation resources within the planning area.

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- ~ Recreational mining activity would be limited to a five-acre site that would be designated in the Dickie Springs-Oregon Gulch Gold Placer Mining District area outside elk calving habitat. A recreation site plan would be prepared and implemented to manage the site for recreational purposes. (JM Alternative 3).

WILD HORSE MANAGEMENT

The Citizens' Wildlife and Wildlands Alternative adopts the BLM's Preferred Alternative for the management of wild horses: "The Divide Basin Wild Horse Herd Management Area (Map 62) boundaries would remain unchanged and the Appropriate Management Level (AML) would be maintained at 415-600 horses."

TRAVEL MANAGEMENT, ACCESS AND REALTY

The Citizens' Wildlife and Wildlands Alternative promotes responsible recreation, hunting, vehicle use, grazing and continued access via existing, designated roads.

The Citizens' Wildlife and Wildlands Alternative adopts -- with revisions to emphasize resource protection -- the BLM's management objective for travel management, access and realty: "Consistent with the highest degree of protection for crucial habitats and sensitive resources, [t]he planning area would be managed to accommodate access needs

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for approved public land uses and to manage access where appropriate to protect other resource values."

To achieve this objective, the Citizens' Wildlife and Wildlands Alternative adopts the BLM's Preferred Alternative, with the following modifications:

- Geophysical and related detonation would be excluded from areas with no surface occupancy requirements, WSAs, ACECs, and other sensitive resources. Seasonal limitations would apply. (JMH Alt. 2).
- Right-of-way (ROW) exclusion and avoidance areas would be as shown in Map 27 (JMH Alt. 2).
- Off-road vehicle (ORV) use would be managed in accordance with a transportation plan that limits use to designated areas, roads and trails.
- A transportation plan would be completed as part of the JMH CAP, consistent with the terms set out in Alternative 2.

WILDLIFE

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The Citizens' Wildlife and Wildlands Alternative ensures the long-term survival of the Red Desert elk and pronghorn antelope herds and other wildlife, and it restores and protects wildlife habitat damaged by roads and pipelines.

Over 350 different wildlife species are found within the planning area. (SDEIS, Vol. 1 at 3-14). The area provides "crucial habitat" for all three major game species, elk, antelope and mule deer. Approximately 187,000 acres of the study area are crucial winter or crucial yearlong range for elk, including the much acclaimed resident Steamboat Mountain elk herd (the largest desert elk herd in the world), which contains between 1000 and 2000 individuals. 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. Both the greater sage grouse and mountain plover, species that have experienced precipitous declines in most of their range- both

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candidates for listing under the Endangered Species Act- 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) for which the following resource objective is established:

- 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.
- 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-mile radius of sage grouse leks, or on nesting habitat and winter concentration areas. Seasonal limitations on disturbing and disruptive activities would apply within two (2) miles of leks, and on nesting and concentration areas, and would be applied 24 hours daily.
 - 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

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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.

- As determined by transportation planning, unnecessary roads would be obliterated and reclaimed to a natural, pre-disturbance condition.
- Timely and complete reclamation of disturbed areas is conducted in accordance with Appendix 9 and remains an ongoing liability of the operator until released by BLM.
- 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.
- 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.

SPECIAL MANAGEMENT AREA MANAGEMENT

The Citizens' Wildlife and Wildlands Alternative adopts the BLM's management objectives for special management areas: "The planning area would be managed to protect unique resource values of special management areas."

In accordance with Section 202 of the Federal Land Policy Management Act, which directs the Secretary of the Interior to "give priority to the designation and protection of areas of critical environmental concern," the Citizens' Wildlife and Wildlands Alternative adopts JMH Alternative 2.

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WILDERNESS STUDY AREA MANAGEMENT

The Citizens' Wildlife and Wildlands Alternative would prevent new roads and developments in roadless areas, increase the size of some Wilderness Study Areas, establish new WSAs for lands identified for Wilderness designation by citizens' inventories, and recommend that all deserving WSAs and wildlands be designated as wilderness by Congress.

~ Roadless areas identified by the Wyoming Wilderness Coalition would be managed as wilderness study areas.

MINERALS AND ALTERNATIVE ENERGY DEVELOPMENT

The Citizens' Wildlife and Wildlands Alternative calls for the trade or buy-out of mineral leases in the area while prohibiting all new oil and gas leasing and large-scale mining.

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The Citizens' Wildlife and Wildlands Alternative adopts the BLM's management objectives for minerals and alternative energy resources management with one small yet significant revision, indicated in italics, below: "To provide *limited* opportunities for mineral extraction and energy development while protecting other resource values."

This revised management objective would reduce the potential for future conflict in the planning area due to large-scale oil and gas and mining activities authorized under the BLM's Preferred Alternative.

Actions to implement the revised management objective for minerals and energy development include:

- The planning area would be closed to new leasing.
- Suspended leases in the planning area would remain under suspension 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.
- On producing leases where buy out or exchange cannot be accomplished, level and pace of development would be both controlled and limited to avoid significant impact and resource conflicts by a combination of regulatory mechanisms

Citizens' Wildlife & Wildlands Alternative
 May 23, 2003
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including, but not limited to, lease suspensions, well spacing orders, unitization, conditions of approval and adaptive management, in a manner consistent with valid existing rights.

- 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. Extraction of saleable materials would be allowed as required to meet other planning objectives, such as maintenance of existing roads in the approved transportation plan. Mining and reclamation plans would be required for each use of saleable mineral materials. (JMH Alternative 2).
- Alternative energy proposals would be managed pursuant to the Preferred Alternative, except that sensitive areas would be off-limits, including but not limited to VRM Class I, Native America Indian respected places, raptor concentration areas, WSAs, ACECs, and sensitive wildlife habitats.
- Coal bed methane development on existing leases is deferred pending revision to Green River RMP.
- The Citizens' Wildlife and Wildlands Alternative for minerals and energy development is consistent with federal law and policy:

"FLPMA'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 Lesky, Solicitor for the Department of the Interior

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 May 23, 2003
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to Bruce Babbitt, Secretary of the Interior, December 22, 2000 (Commenting on the Jack Morrow Hills Coordinated Activity Plan DEIS).

COMMUNICATION SITES

Except for the existing White Mountain communication site, the planning area is closed to communication sites.

ADAPTIVE MANAGEMENT AND MONITORING

The Citizens' Wildlife and Wildlands Alternative adopts an Adaptive Management Strategy (AMS) substantially different from that described in the Preferred Alternative:

- The Citizen's Alternative rejects the notion, set out in the BLM's Preliminary Adaptive Management Implementation Strategy, that "it is impossible to predict how future development will proceed." (A17-1). Under the Citizens' Alternative, BLM exercises its regulatory authority to control and limit the pace, location and level of development in a manner that is consistent with valid existing rights and protection of the environment. Through a combination of lease suspensions, lease stipulations, conditions of approval, monitoring, mitigation measures and other mechanisms, the BLM will assure that future development on existing leases does not conflict with or adversely impact other uses and resource values.
- New leases will not be issued in the planning area during the life of the plan.
- Development on existing leases (those that could not be purchased or exchanged) would be controlled and limited to provide for staged development on a lease-by-lease basis, ensuring minimal environmental impacts and resource conflicts.
- The list of monitored "resource indicators" (Table A17-1) would be expanded to include: 1) air and water quality, including compliance with CAA State Implementation Plans and DEQ water quality standards; 2) threatened and endangered species; 3) sensitive species representative of various habitat types in the planning area; 4) significant heritage resources; 5) reclamation success; 6) invasive weeds and exotic species.
- The management objectives and goals (A-17-2) are revised to conform to those set out in the Citizens' Alternative. Wildlife resources is added as a discrete resource for which management objectives shall be established.

Citizens' Wildlife & Wildlands Alternative
May 22, 2003
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- The "overall approach" under the Citizens' Alternative is modified significantly to retain all existing lease suspensions in the planning area while lease exchange and/or buy out is pursued, and site-specific lease development plans are created.
- In accordance with BLM's regulations at 43 CFR § 1610.4-9, intervals and standards for monitoring would be established and displayed in the Adaptive Management Plan.
- The adaptive management strategy is completed and included in the Final EIS for public review and comment. The AMS is incorporated into the Record of Decision as a binding and enforceable instrument. Pending completion of the AMS and issuance of the ROD, existing oil and gas leases remain under suspension, and no new leases are offered.

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RESOURCES NOT EXPRESSLY ADDRESSED IN THE CITIZENS' WILDLIFE AND WILDLANDS ALTERNATIVE WOULD BE MANAGED IN ACCORDANCE WITH JMH SDEIS ALTERNATIVE 2.

RESPECTFULLY SUBMITTED, THIS 23rd DAY OF MAY, 2003

Tom Bell
Lander, Wyoming

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THE SECRETARY OF THE INTERIOR
WASHINGTON

MEMORANDUM

To: Director, SLM

From: Secretary, SLM

Date: December 22, 2000

Subject: Jack Morrow Hills Coordinated Activity Plan

By this memorandum, I am transmitting to you the opinion of the Solicitor regarding the draft environmental impact statement for the Jack Morrow Hills Coordinated Activity Plan. I concur in his opinion.

Having reviewed this Plan with my staff, and having visited the area, I am greatly impressed by the *unique* and outstanding natural resources contained in the planning area. With one of our Nation's largest unfenced areas outside of Alaska, its big game populations are among the largest and healthiest in the lower 48. It contains one of the most diverse and numerous concentrations of raptors anywhere. Significant cultural resources, including remnants of the Oregon and Mormon Pioneer trails and the mining camps of South Pass, only add to the area's allure. Seven wilderness study areas are *found here, and are treasured* for their aesthetic beauty and the recreational opportunities they afford. It is no wonder that former Governor Leslie Miller recommended this area as the Great Divide Basin National Park as far back as 1935. Others, like Tom Bell, have worked hard for many years to promote special protection for this area,

The planning area contains significant oil and gas resources and, as the Solicitor notes, much of it has already been leased. Some oil and gas development is occurring, especially in its southwestern portion. Any decision to protect the outstanding natural resources of the Red Desert must be accomplished in a manner that protects the valid existing rights of these mineral owners. To the extent it is consistent with our *paramount* concern for protecting the natural resources in the planning area, some additional leasing might be allowed, but the presence of finite mineral resources should not deprive future generations of the natural and aesthetic wonders of the Great Divide Basin.

A final decision as to how this area should be protected will necessarily be made by a future Administration. Nonetheless, it is my responsibility to place the BLM on a track that helps to insure that, after a full opportunity for the public participation, an appropriate decision will be



made to protect this unique area and its outstanding resources. To that end, I ask that you direct the Wyoming BLM office to propose the conservation alternative as its preferred alternative in the supplemental draft EIS that the Solicitor has determined should be prepared.

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United States Department of the Interior

OFFICE OF THE SOLICITOR

Washington, D.C. 20240

MEMORANDUM

To: Secretary,

From: Solicitor

Date: Dec 2000

Subject: Jack Morrow Hills Coordinated Activity Plan

At your request, I have reviewed the draft environmental impact statement (DEIS) for the Jack Morrow Hills Coordinated Activity Plan and for the reasons that follow, I believe a revised or supplemental draft EIS that would more fully conform to applicable legal requirements should be prepared for public comment and review. Also, because the BLM has revised its land use planning manual and handbook since the first draft DEIS was published, the new draft should conform with the procedures set forth in those documents.

1. Erroneous Assumptions

Several assumptions made in the DEIS are not consistent with existing federal land management laws. These assumptions are especially problematic under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4323 *et seq.*, because they result in the BLM's failure to consider certain management options for the planning area that may be reasonable in light of the significant biological, cultural, and aesthetic resources that are identified in the DEIS. The NEPA regulations adopted by the Council on Environmental Quality, which are binding on federal agencies like the BLM, require agencies to "[r]igorously explore and objectively evaluate all reasonable alternatives." 40 C.F.R. § 1502.14(a).

For example, the DEIS suggests that withdrawing the area from mineral location and closing it to leasing would be "contrary to the BLM's multiple use management mandate in FLPMA." DEIS, p. 12. It also relies on a provision of the BLM Manual which provides that "public lands shall remain open and available for mineral exploration unless [to do otherwise] ... is clearly justified in the national interest." *Ibid*; 13LM Manual, 3000.06A.¹ The DEIS also states that "[r]esource conflicts tend to be located in specific areas, not planning area wide, and closing, the entire area [to oil and gas leasing] would not be reasonable." DEIS, p. 12. This statement is

¹ We have been unable to locate a copy of the May, 24, 1987 policy memorandum cited in the DEIS. The language quoted there is, however, found in the referenced section of the 13LM Manual.

"irresource conflicts tend to be located in specific areas, not planning area wide, and closing the entire area (to oil and gas leasing) would not be reasonable." DEIS, p. 12. This statement is reinforced by a later statement on the same page that "closure to leasing of federal oil and gas resources in the planning area continues to be unacceptable."

FLPMA's definition of multiple use expressly recognizes that the most "judicious use" of land may involve the use of some and "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. FLPMA also provides that an area may be withdrawn or "excluded from mineral development when such development may be incompatible with "maintain[ing] other public values in the area." See 43 U.S.C. § 1702(j) (definition of withdrawal in FLPMA.). FLPMA requires that, for withdrawal proposals exceeding 5,000 acres, the Secretary submit certain kinds of information and analyses to the appropriate congressional committees about the withdrawal. See 43 U.S.C. § 1714(c)(2). But FLPMA does not make mineral activity the preeminent use of federal lands; indeed, FLPMA's statement of policies makes clear that mining activity is only one of many values to be promoted on the public lands. See 43 U.S.C. § 1701(a).

Here, the DEIS identifies significant wildlife and other resource values.² Whether or not they implicate "the national interest," they are sufficiently significant that BLM is required, in its EPA documentation, to consider their protection through mineral withdrawals or exclusions. Accordingly, it was not appropriate for the DEIS to refuse to consider such actions.

With regard to non-leasable minerals, it seems an entirely reasonable option to withdraw all or most of the planning area from such mineral development. This is because, as the DEIS notes, the area appears to have limited potential for non-leasable mineral development, and very little current mining activity. DEIS, pp. 217-218; Map 48. Given the uniqueness and importance of the resources that merit protection, NEPA and its implementing regulations require the 131-M to consider the withdrawal of any lands where non-leasable mineral development would be inconsistent with protection of other values. Such an alternative is plainly reasonable and, as noted above, the CEQ regulations require agencies to "[r]igorously explore and objectively evaluate all reasonable alternatives. 40 C.F.R. § 1502.14(a) (emphasis added). So, for

² As described below, mineral exclusions, which totally eliminate one or more uses from public lands, are provided for in FLPMA's land use planning process under 43 U.S.C. § 1712(e).

These resources are described in more detail in the DEIS, and include cultural, archeological, and historical resources, DEIS at 205-204; recreational resources, DEIS at 219-30; potential wilderness areas, DEIS at 235-244; and significant wildlife resources, including endangered and threatened species, DEIS at 235-244.

example, if hard rock mining is inconsistent with the protection of sage grouse leks, the BLM should consider withdrawing the land around these leks as may be necessary or appropriate to protect sage grouse habitat. Moreover, the fact that the area has a low potential for hard rock mineral development should, if anything, support withdrawal of the lands, since the economic impact of such a withdrawal will likely be minimal.

With regard to leasable minerals, and most specifically to oil and gas leasing, closing much of the planning area would not likely have a significant impact, especially in *the short term*. This is because approximately two-thirds of the planning area has already been leased, and oil and gas development will still be allowed in those areas even after a closure. As the DEIS correctly notes, lessees will retain development rights on their existing leases. DEIS, p. 13. But the DEIS does not seem to take this point fully into account in predicting the likely impact from closing the area to further leasing. Rather, the DEIS appears to assume that the leasing restrictions imposed under Alternative B would apply as if there were no pre-existing leasing. See DEIS, p. 382. The DEIS analysis should accordingly address the scope of oil and gas development that is likely, given the valid existing rights held by lessees. Under these circumstances, it is not "unacceptable" - as the DEIS assumes - to close the planning area or a substantial portion of the planning area to new mineral leasing. Instead, it is a reasonable alternative that ought to be carefully considered in the NEPA documentation.

BLM has long taken the view that land use plans are an appropriate process by which to decide whether or not to exclude lands from mineral leasing, mineral sales, and other discretionary actions. BLM Land Use Planning Handbook at H-1601-1, II.A. ("Land use plans ... identify lands... that are closed to certain uses.") This practice of using land use planning to exclude lands from discretionary actions such as mineral leasing is lawful. Section 202(e) of FLPMA, authorizes the BLM to make land use planning decisions that totally eliminate certain types of land uses. 43 U.S.C. § 1712(e). The same subsection clearly speaks in discretionary terms for using the formal withdrawal procedures of section 204 of FLPMA to implement management decisions, except where lands are closed to entry and location under the General Mining Law of 1872. See 43 U.S.C. § 1712(e)(3) ("Withdrawals made pursuant to section 1714 of this title *may be used in carrying out* management decisions, but public lands shall be removed from ... the operation of the Mining Law of 1872... *only* by withdrawal action pursuant to section 1714 of this title or other action pursuant to applicable law.") (Emphasis added.)

Two Wyoming federal district court decisions suggest that, in certain contexts, the BLM must follow FLPMA's withdrawal procedures before it can refuse to process lease applications. *Mountain States Legal Foundation v. Hodel*, 668 F. Supp. 1466 (D. Wyo. 1987); *Mountain States Legal Foundation v. Arndt*, 499 F. Supp. 383 (D. Wyo. 1980). The reasoning of these decisions has been rejected by the Court of Appeals for the Ninth Circuit, see *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1229-1230 (9th Cir. 1988), cert. denied, 489 U.S. 1066 (1989), and I believe the Ninth Circuit correctly states the applicable law.

Even in Wyoming, where the Jack Morrow Hills planning area is found, I believe the two

Mountain States cases are not controlling, for neither involved FLPMA land use planning." For purposes of land use planning, Section 202(e) of FLPMA authorizes the Secretary to "issue management decisions to implement land use plans." 43 U.S.C. § 1712(e). Such decisions are specifically allowed to include "exclusions (that is, total elimination) of one or more of the principal or major uses." See *Public Lands Council v. Babbitt*, 529 U.S. 728 (2000).¹ The only limitations on this power are: (1) exclusions of such uses on 100,000 acres or more are subject to congressional notification, 43 U.S.C. § 1712(e)(2); and (2) the withdrawal authority of Section 204 of FLPMA or "other action pursuant to applicable law" must be used for hard rock mining exclusions under the General Mining Law of 1872. 43 U.S.C. § 1712(e)(3). Therefore, it seems plain that formal withdrawal under FLPMA section 204 is not required for other types of exclusions (such as mineral leasing exclusions) so long as the requirements of Section 202(e) are met. 43 U.S.C. § 1712(c).

iii sum. I believe that applicable public land law gives the Secretary three ways to decide not to lease tracts of public lands for oil and gas or other minerals: (1) exercising his statutory discretion under the Mineral Leasing Act, see *Udall v. Tallman*, 380 U.S. 1 (1965); *United States ex rel McLennan v. Wilbur*, 283 U.S. 414 (1931); (2) excluding lands from leasing through FLPMA's section 202 planning process; or (3) withdrawing the land through FLPMA's section 204.

^c The DEIS also suggests that reduction or elimination of livestock grazing is necessary only where it would "significantly" conflict with other management objectives. DEIS, p. 12. Livestock grazing may be reduced or eliminated on BLM-managed land when necessary or appropriate to protect other values, or where rangeland health standards are not being met. Thus, especially in the context of the "conservation alternative" the BLM must not assume that "significant" conflicts with other resources must be shown in order to reduce or eliminate livestock grazing.

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The DEIS inappropriately limits the scope of the analysis to the "framework of the Record of Decision and approved Green River RMP." DEIS, p. 14 (emphasis in original). Specifically, it states that for the "no action" alternative, management would be based on implementing the Green River RMP. For all of the other alternatives, the goal is to "stay[] within the framework of the Record of Decision and approved Green River RMP, in as much as possible." *Id.* This is not

Mountain States v. Andrus, 499 F. Supp. 383 (D. Wyo. 1980) arose in the context of an administrative review of the suitability of certain national forest lands for inclusion in the Wilderness system. *Mountain States Land Foundation v. Model*, 668 F. Supp. 1466 (D. Wyo. 1987) involved a decision by the Forest Service to suspend leasing pending completion of land use planning activities under the Rangeland Resources Planning Act, 16 U.S.C. § 1604, as amended by the National Forest Management Act of 1976, 16 U.S.C. § 1604.

The Court noted that "the Secretary was authorized to reclassify and withdraw land from grazing altogether and devote it to a more valuable or suitable use." 529 U.S. 728; (2000). (slip [op.](#) at 9). The same reasoning applies to mining.

Accurate. BLM prepared the Jack Morrow Hills Coordinated Activity Plan in response to concerns raised during the development of the Green River RMP. DEIS, p. 1. As the DEIS notes, the CAP was designed to "provide more specific management direction to prevent or address conflicts among potential development of energy resources, recreational activities and facilities, and more specific management direction for other land and resource uses in the planning area, including livestock grazing, important wildlife habitat and other important resources." *Ibid.* The Green River WP was completed in 1997 but it deferred certain mineral development decisions until completion of the Jack Morrow Hills CAP. *Ibid.* As the DEIS itself recognizes, "the JMHCAP will amend the Green River RMP," *id.*, p. 2, and thus it was unnecessary to limit the scope of the DEIS to the framework of the RMP. Moreover, as noted earlier, NEPA requires the BLM to consider all reasonable alternatives, including those outside the *framework of the* RMP. 40 C.F.R. § 1502.14. Thus, it was not proper to design the alternatives so that they all fit within that framework.

A related concern is BLM's statement that it "will not consider any additions or changes to the existing WSAs in the planning area" because such consideration would be inconsistent with the record of decision on the Green River RMP and a wilderness inventory that was prepared in 1978-1979. DEIS, p. 13. As indicated above, consistency with the RMP is not a proper basis upon which the BLM may refuse to address issues raised during the planning process. Moreover, because the location of WSA boundaries within the planning area could very well affect planning decisions, the JMHCAP should address new information regarding WSA boundaries.

Section 603(c) of FLPMA prohibits the BLM from eliminating or reducing existing WSAs that were identified under section 603(a). Such WSAs must be managed so as not to impair their suitability for designation as wilderness "until Congress has determined otherwise." 43 U.S.C. 1782(c). But BLM does have the authority, under section 202 of FLPMA, to designate new WSAs, which can be adjacent to existing section 603 WSAs. Thus, while existing WSA's cannot be eliminated in the JMHCAP, the BLM may designate new WSAs in accordance with section 202. In deciding whether to do so, the BLM may rely upon existing WSA information to the extent that it remains accurate. But the BLM may not refuse to consider credible new information which suggests that the WSA boundaries identified in the late 1970's do not include **all public** lands within the planning area that have wilderness characteristics and are suitable for management as wilderness.

A Alternatives

While the range of the four alternatives addressed in the EIS seems reasonable, the erroneous assumptions identified above resulted in unnecessarily limiting the conservation focus of both the preferred alternative and Alternative B. To address this problem, the BLM should prepare a supplemental FIS that more clearly describes the focus or theme of each alternative, and insures that the discussion of each alternative clearly reflect, that theme and is consistent with the law as explicated in this memorandum.

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For example, instead of obliquely stating that Alternative A "would generally reduce the level of land use restrictions and allow more development of mineral resources," Alternative A should be described as focusing on resource development. The DEIS should make clear, in this alternative as in all others, that conservation of wildlife and aesthetic resources would be assured to the extent that such protections are either required by law, or otherwise compatible with a resource & development focus. (This will help insure that the alternative is "reasonable.")

Likewise, Alternative B should be described as focusing on the protection of biological, aesthetic, and cultural resources, rather than on "increas[ing] the level of restrictions on land uses and allow[ing] less development of mineral resources." This discussion should indicate that reasonable development activities might still be allowed, but only to the extent that such activities are consistent with this alternative's paramount concern for resource conservation.

What is now described in the DEIS as the preferred alternative should be clarified as accommodating both resource development and resource conservation, recognizing that such accommodation will likely lead to some unavoidable conflicts in favor of one or the other objectives.

To provide further clarity, descriptive terms should be used to identify the alternatives. For example, alternative A might be called the resource development alternative, Alternative B the conservation alternative, and what is now the preferred alternative the accommodation alternative. As described above, all of these alternatives are consistent with FLPMA'S definition of "multiple use," so it would not be accurate to describe the accommodation alternative as the "multiple use" alternative.

M. Conciseness

The CEQ regulations provide that the text of a final EIS "shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages." 40 C.F.R. § 1502.7. This EIS addresses some complex issues, but at 719 pages (counting appendices, with well over 400 pages of basic text), it is not sufficiently concise. In an attachment to this memorandum, I have offered several suggestions for shortening this document, and I urge the 13LM to consider these and other measures for making this document less cumbersome.

I understand that substantial work has gone in to producing this draft EIS, and it contains much useful information. Given the importance of this matter and the high level of public interest; however, I recommend that the BLM prepare a second draft document for public review and [comment](#), as described in this memorandum.

I concur.


Secretary

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ATTACHMENT
SUGGESTIONS FOR IMPROVING AND SHORTENING THE JACK MORROW MILLS DEIS

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Set forth below are several suggestions for shortening and improving the Jack Morrow Hills DEIS. First, the section analyzing alternatives and describing environmental consequences both contain significant redundancies. Each subject area is addressed four separate times (in conjunction with the discussion of each alternative), often with identical or very similar language each time. I recommend that each of these issues be discussed just once in the alternatives section and once in the environmental consequences section. This will significantly reduce the size of the document and make it easier for the public to understand the difference between each of the alternatives with respect to each issue.

Second, the CEQ regulations provide that the "Affected Environment" and "Environmental Consequences" sections of the EIS "should present the environmental impacts in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public." 40 C.F.R. § 1502.14. The DEIS *will be more* consistent with these regulations, and it will be much easier for the public to understand the differences in the environmental consequences for each alternative approach to livestock grazing, for example, if one needs to read only one section of the DEIS, rather than flipping back and forth among four separate sections.

Third, Table 2-1, which was apparently designed to make it easier for the public to compare alternatives, cannot fairly serve that purpose because, at more than 100 pages, it is simply too long. The first four pages do not even purport to offer a comparison and can probably be eliminated entirely. Consider trying to recast this Table so that there is only one fairly general statement under each resource category. The size of this Table could be dramatically reduced if it referenced pages in the EIS where one could find further details. It might also be easier to understand if it were reorganized to indicate alternatives from the least to most restrictive alternative (or vice versa). Also, instead of repeating the same information with just slight variations the Table would be easier to follow if the first box were used as a benchmark, and the boxes after the first column simply indicated the differences from the first box.

Fourth, Table 4 (which is 61 pages long) could probably be eliminated in its entirety if the narrative portion of the DEIS is recast, as suggested above, with the environmental consequences of each alternative analyzed together in the text.

Finally, to the extent possible, maps that contain similar or related data should be combined and produced *in color*. This will allow the interested public to better understand the cumulative and interrelated nature of such disparate matters as *the biological* resources and mineral resources of the area, while reducing the length of the DEIS.

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May 23, 2003

Jack Morrow Hills CAP Team Leader
 280 Highway 191 North
 Rock Springs, WY 82901

RE: JMHCAP—Supplemental DEIS

Dear BLM:

The Wyoming Stock Growers Association (WSGA) appreciates the opportunity to comment on the Jack Morrow Hills Coordinated Activity Plan Supplemental Draft EIS. WSGA, with over 1,200 members, represents the Wyoming cattle industry. Several of our members hold grazing preferences within the area encompassed by the JMHCAP.

WSGA generally endorses the Preferred Alternative as outlined in the Supplemental EIS. We believe that this alternative assures a continued opportunity for historic livestock grazing consistent with meeting resource needs. The Preferred Alternative is, in nearly every instance, consistent with current livestock grazing (the No Action alternative). This further confirms the position that we have taken in earlier comment that grazing should never have been included in the CAP analysis because it had been fully addressed in the Green River Resource Management Plan.

The one component of the Preferred Alternative to which we strongly object is the direction provided regarding predator damage control. We find no justification for the proposed designation of the JMHCAP area as a "Restricted Control Area" or for a change in the current allocation of responsibilities between BLM and APHIS-WS. It is the statutory duty of APHIS-WS to conduct appropriate predator control activities in the protection of livestock and wildlife. The No Action alternative appropriately provides that APHIS-WS would determine appropriate animal damage control methods in coordination with BLM. This process has operated successfully to date and should continue. If the Preferred Alternative is adopted as written, WSGA requests that you provide us with specific reasoning and justification for this change.

Guardian of Wyoming's Cow Country Since 1872

Jack Morrow Hills CAP Team Leader
May 23, 2003
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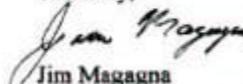
Much of the area encompassed by the JMHCAP has traditionally been used as spring or fall range for livestock. The typical season of spring use has begun on May 1. Fall use has ended on December 1 concurrent with the opening of the Rock Springs Grazing Association lands and permits. Activity restrictions within the JMHCAP designed to meet wildlife needs for critical habitat must recognize and honor these established periods of livestock grazing.

The Supplemental Draft EIS states in Section 4.4.4 "Anticipated grazing use is assumed to increase over the planning period to the fully permitted active use amount under Alternative 1 but to maintain the historic use under all other alternatives. We find no basis for this distinction. While it may be correct to assume that actual use is unlikely to reach fully permitted levels, it is important to recognize the permittees ability to make such utilization so long as this can be accomplished in a manner consistent with the Standards and Guides for Healthy Rangelands.

The Preferred Alternative recognizes an increase in the Wyoming Game & Fish herd objective for elk from 500 to 1,200. This alternative then makes an assumption that, in the "short term" there will be in excess of 1,200 head of elk. WSGA requests that the "short term" be defined as a specific number of years, not to exceed three, during which the elk population in the JMHCAP area will be reduced to not more than 1,200 head.

Finally, we again express our concern with the uncertainty for livestock operators and the delay in proposed grazing activity that has unnecessarily resulted from the ongoing JMHCAP process. We anticipate that there will be further delays caused by appeals and litigation following issuance of a Record of Decision. For these reasons, WSGA requests that those components of the ROD directly affecting livestock grazing be placed in full force and effect immediately upon issuance of the ROD.

Sincerely,


Jim Magagna
Executive Vice President

Guardian of Wyoming's Cow Country Since 1872