

# Comments of the Supplement to the Draft RMP/EIS by Resource

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## Adequacy and Analysis

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United States Environmental Protection Agency	G	6	11	Category 2 (Insufficient Information) means EPA finds that the draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment. EPA requests that the identified additional information, data, analyses, or discussion be included in the Final EIS or in another future NEP A document regarding major energy development within the planning area.	Comment noted. The BLM will ensure where possible that the information is included in the Proposed Plan. Additionally, Future NEPA documents concerning major energy developments, site specific projects, and other Land Use Plan authorizations will contain the information.	
United States Environmental Protection Agency	G	6	46	Section 4.1.1. Analytical Assumptions. page 4-2: The final bullet references the Hill Creek Extension of the reservation not being included in Alternative D. This appears to make comparison of the other alternatives to the No action or Alternative "D" inconsistent since they are not comparing the same area.	The final bullet of Section 4.1.1 Analytical Assumptions, Page 4-2, is referring to the fact that the Hill Creek Extension was not analyzed for oil and gas leasing in the Book Cliffs RMP/EIS (BCRMP/EIS) and therefore, is not open to for leasing under the "No Action" or "Current Management" Alternative, Alternative D. All alternatives are comparing the same area. The Hill Creek Extension under Alternative D. would be considered closed to leasing as having not been analyzed under the BCRMP/EIS.	
United States Environmental Protection Agency	G	6	47	Table 4-1, Disturbance Assumptions, page 4-3: The basis assumption is that surface disturbance can be reclaimed within one year after completion of operations. Soil conditions, annual precipitation, and presence or absence of invasive plant species may lengthen reclamation time significantly.	The sentence has been rewritten as follows:  Interim reclamation will occur on 0.9 acres of surface disturbance within 1 year after completion of operations.	X
Sweetwater Country Conservation District	G	9	19	The Supplemental DEIS fails to address the adverse environmental and economic impacts of WSA-type management BLM grazing permittees or the rangeland resources. It would eliminate intensive management options on a significant percent of land, thus adversely affecting vegetation and wildlife habitat. The Supplement fails to address the broader, landscape scale impacts, and in this regard, BLM's analysis does not allow for informed decision-making as required by NEPA.	The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public.	

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					<p>Public participation was essential in this process and full consideration was given to all potential alternatives identified.</p> <p>The BLM determined that a single alternative analyzing the protection of all Non-WSA lands with wilderness characteristics would best provide a reasoned choice among the alternatives. Although the other alternatives do not provide specific management prescriptions to protect Non-WSA, these alternatives analyze and disclose the impacts of the proposed resource management prescriptions, uses and actions on the Non-WSA lands with wilderness characteristics. This gives the public the ability to fully compare the consequences of protecting or not protecting the wilderness characteristics on these Non-WSA lands. If all alternatives contained comparable protections of the Non-WSA lands with wilderness characteristics, the alternatives would have substantially similar consequences and would not be significantly distinguishable.</p>	
Daggett County	G	11	1	<p>Managing the Subject Lands Under Alternative E Would Violate Federal Law, BLM Policy, and the State of Utah/Department of Interior Settlement Agreement of 2003.</p> <p>Daggett County's position on this point was set forth in its letter, dated April 2, 2007, jointly addressed to State BLM Director Selma Sierra and Vernal BLM Field Office Manager William Stringer. An extra copy of that letter (Exhibit A) {see attached letter} is enclosed for your reference. At the risk of repeating some of the points in that letter, Daggett County submits the following additional comments concerning the illegality of adopting Alternative E:</p>	<p>Please see Response to ID No. G-9-Comment 1.</p> <p>Comment Noted.</p>	

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		<p>By adding Alternative E, BLM has exceeded the true intent of the Kimball Decision. Although the Kimball decision itself rests on an adjudged violation of NEPA, Judge Kimball emphasized that NEPA itself is merely procedural, that NEPA does not mandate a particular management standard, but rather NEPA only imposed the duty to analyze the effect of whatever management standard is applied. BLM's duty under Kimball was to analyze the effects of current alternatives on only alleged wilderness characteristics that may be found in the Subject Lands, not to create a non-impairment management standard as to those characteristics. With all respect, the BLM has turned the Kimball decision on its head by purporting to create the new Alternative E management standard.</p> <p>Adopting Alternative E would violate the restrictions of BLM's own Instruction Memorandum No. 2003-275, which states "it is no longer BLM policy to continue to make formal determinations regarding wilderness character, designate new WSAs through the land use planning process, or manage any lands--(except Section 603 WSAs) in accordance with the non-impairment standard prescribed in the IMP {Interim Management Policy for WSAs}." (Emphasis added.) Under the standard "if-it-walks-like-a-duck-and quacks-like-a-duck-it-must-be-a-duck" analysis, the prescriptions of proposed Alternative E are substantially similar, if not more restrictive, than the restrictions of the BLM IMP for WSAs. Thus the proposed Alternative E squarely contradicts the BLM's own IM 2003-275.</p> <p>The proposed Alternative E's restrictive management</p>		

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				<p>standards that would effectively treat the Subject Lands as if they are WSAs, are largely built around BLM's 1999 Utah Wilderness Reinventory. Yet in 2003 the Department of Interior promised the State of Utah, among other things, not to use the 1999 Utah Wilderness Reinventory to manage public lands "as if": they are or may become WSAs. Utah v Norton settlement agreement of April 11, 2003 at p. 13 Para 14.</p> <p>It has long been the County's position that if these lands had "wilderness character: they would have been included in previous inventories as possible wilderness. A more correct title would be "lands that have characteristics associated with the concept of wilderness."</p>		
C.E. Brooks & Associates, P.C.	G	151	3	<p>...the cumulative effects in the Supplement and fully analyze Alternative E's adverse impacts on the environment and the livestock grazing permittees if future or planned range improvement projects were not allowed to proceed. As the draft RMP acknowledges, rangeland management, including livestock operations, must be able to show that they meet, maintain, or are making progress towards meeting the rangeland health standards. 43 D.F.R. Section 4180.2. In most cases, range structures and vegetation projects are the best way to allow livestock grazing to continue and yet address resource issues. In addition to livestock grazing, rangeland resource conditions reflect many land uses, including wildlife, wild horses, drought, recreation, and oil and gas development.</p>	Please see Comment ID No. 9-G-19.	
C.E. Brooks & Associates, P.C.	G	151	4	<p>Alternative E will have significant adverse environmental effects, because range improvements that benefits soil, water quality, vegetation, and wildlife habitat, will be prohibited or restricted. The EIS must fully disclose and</p>	<p>Comment noted. The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of</p>	

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				<p>analyze the cumulative effects on these resources where Alternative E would prohibit or restrict beneficial actions. The DEIS fails entirely by incorrectly assuming no impact on rangeland management. This misconception must be corrected and the DEIS must disclose acres of sage brush that might not be treated, riparian or meadows that may not improve, and pinon-juniper stands that will continue to encroach on sage brush. The DEIS must also discuss the impacts on the sage grouse populations that stand to otherwise benefit from vegetation improvement projects. Some of the non-WSA lands are forested and currently suffer from pine beetle infestations. Classification as a non-WSA will preclude treatment, thus infesting adjacent healthy forests and increasing the risk of catastrophic fire.</p>	<p>the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public. Public participation was essential in this process and full consideration was given to all potential alternatives identified. The BLM determined that a single alternative analyzing the protection of all Non-WSA lands with wilderness characteristics would best provide a reasoned choice among the alternatives. Although the other alternatives do not provide specific management prescriptions to protect Non-WSA, these alternatives analyze and disclose the impacts of the proposed resource management prescriptions, uses and actions on the Non-WSA lands with wilderness characteristics. This gives the public the ability to fully compare the consequences of protecting or not protecting the wilderness characteristics on these Non-WSA lands. If all alternatives contained comparable protections of the Non-WSA lands with wilderness characteristics, the alternatives would have substantially similar consequences and would not be significantly distinguishable. The BLM, in developing the PRMP/FEIS, can chose management actions from within the range of the alternatives presented in the DRMP/DEIS and create a management plan that is effective in addressing the current conditions in the planning area based on FLPMA's multiple-use mandate.</p>	
C.E. Brooks & Associates, P.C.	G	151	10	<p>The DEIS analyses of solitude in the wilderness characteristics worksheets also completely fail to take into account the Taylor Flats subdivision contiguous to Lower Flaming Gorge non-WSA area, and the major recreation</p>	<p>The RMP is a programmatic document that considers management decisions and impacts analyses on a landscape level, not a site-specific level.</p>	

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				facilities' nearby on the Green River.		
C.E. Brooks & Associates, P.C.	G	151	11	There are two campgrounds near the non-WSA lands that have toilet facilities, fire pits, and motorized traffic. There is also a interpretative recreation center that brings in traffic with related noise incompatible with solitude and primitive recreation. The DEIS only considers "minimal recreation facilities" as consistent with wilderness criteria. Supplement at 2-10. The DEIS also does not address the light impacts from the Taylor Flats subdivision or the Town of Manila, the latter of which affect the Cold Spring Mountain and Mountain Home non-WSA areas.	See comment response 151-O-4.	
C.E. Brooks & Associates, P.C.	G	151	15	These areas also feature permanent structures related to ranching, such as irrigation facilities for the meadows, and fences.	See comment response 151-O-4.	
C.E. Brooks & Associates, P.C.	G	151	19	Under NEPA, BLM needs to consider the full spectrum of the affected environment, including impacts to rangeland resources, wildlife habitat, and livestock grazing. 40 C.F.R. Sections 1508.13, 1508.14. The Supplement needs to consider the direct, indirect, and cumulative impacts to the rangeland environment from prohibiting such treatments. Because the EIS incorrectly assumes no impact, it does not address the impacts of limiting or prohibiting improvements that will otherwise improve riparian areas and meadows, rejuvenate decadent stand of sage brush, or reduce encroachment of woody species (pinon-juniper) to benefit sage brush.	The Draft RMP, along with the Supplement, considers the direct, indirect, and cumulative impacts 22 different resources that include rangeland resources, wildlife habitat, and livestock. Through a wide range of alternatives, the impacts of various management prescriptions are presented and impacts discussed in Chapter 4 of the RMP.	
C.E. Brooks & Associates, P.C.	G	151	20	Thus, the DEIS should disclose and analyze the impacts of Alternative E on wildlife habitat, sage grouse habitat, and riparian areas. It should also disclose and analyze the impacts of Alternative E on the feasibility of the public lands meeting, making substantial progress towards meeting, or maintaining rangeland health standards. There is no such discussion.	See comment response 151-G-19.	

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National Wildlife Federation	O	157	4	<p>The SDEIS simply fails to make use of available scientific data that would aid BLM in evaluating, anticipating, and preventing impacts to sage-grouse. Scientific data has shown that even a minimal level of development within 3-5 km of a sage-grouse lek negatively influences breeding activity. In fact, recent information from a doctorate dissertation on the impacts of oil and gas development to Greater sage-grouse in the Pinedale Anticline revealed that, as development increased, lek activity declined up to 100%. Holloran (2005). Based on these findings, both Holloran (2005) and Connelly et al. (2000) recommend implementing at least a 5 km buffered around active sage-grouse leks.</p> <p>Despite these recommendations, a 1/4 mile NSO buffer around known sage-grouse leks remains BLM's mitigation measure of choice. Vernal RMP DEIS at 2-61. NWF does not believe that this buffered is adequate to conserve Greater sage-grouse and their habitat. The United States Fish and Wildlife Service repeatedly has stated that this 1/4 mile buffer should not be considered as appropriate mitigation for sage-grouse.</p>	<p>One of the goals and objectives listed in Table 2.1.21 of the PRMP/EIS states, "BLM would continue to work with USFWS and others to ensure that plans and agreements are updated as necessary to reflect the latest scientific data," thereby providing the BLM the flexibility to adopt revisions to plans as they occur.</p> <p>Table 2.1.21 of the PRMP/EIS describes a range of five alternatives that were considered for the management of sage grouse.</p>	
National Wildlife Federation	O	157	6	<p>Again, none of the alternatives described in the SDEIS include an implementation of strategies to monitor the health of sage-grouse populations.</p> <p>Winter habitat is also not adequately addressed in the DEIS. This is partially due to the fact that the winter habitat of sage-grouse has not been adequately researched or mapped. This should be done prior to commencement of the project so that well pads and other facilities are not placed directly in winter habitat.</p>	<p>Site-specific NEPA analysis is conducted prior to any surface-disturbing activity. A wide range of resources are assessed (including sage-grouse leks and populations) by an Interdisciplinary Team. wildlife surveys are conducted as part of this process. Based on the survey results, the VFO implements an array of protection measures (including mitigation measures, Condition of Approval, etc.) to protect the species.</p>	
National Wildlife Federation	O	157	7	<p>As discussed above, the SDEIS' analysis of environmental consequences is rudimentary. Moreover, impacts to wildlife species also cannot be adequately determined without greater information regarding</p>	<p>See comment response 151-O-4.</p> <p>Any potential surface disturbing activities based on future proposals will require site-specific NEPA analysis and</p>	

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				locations of well, facility, and road sites. Impacts such as fragmentation and barriers to movement and migration can be effectively analyzed only when the actual location of well pads, facilities and roads are known. Impacts to big game species, particularly in crucial winter range, differed significantly depending on whether the development is concentrated in one area of the range or spread throughout. Likewise, impacts to sage-grouse depend on this distribution of development.	documentation.	
National Wildlife Federation	O	157	8	Finally, the SDEIS refers to Best Management Practices, such as directional drilling, as measures intended to mitigate impacts to wildlife. What is missing, however, is any indication of where or when or if any of these measures would be employed. Without knowing how many and which measures would be used, it is impossible to identify and compare the environmental impacts associated with this RMP.	See comment response 157-O-6.	
State of Utah	G	189	17	Please clarify which area were excluded, why, and how the features or activities that contradict wilderness character would impact "outstanding opportunities for solitude or a primitive and unconfined type of recreation" on adjacent lands.	The Proposed Plan column in Table 2.1.10 as well as Section 4.22 in the PRMP/EIS clarifies which non-WSA lands with wilderness characteristics were brought forward. The rationale for the decision will be addressed in the FEIS/Record of Decision.	
State of Utah	G	189	18	The review form does not identify any areas as having wilderness characteristics, but the attached map and Box 3.b. do. Please either substantiate any inference from the map that wilderness characteristics exist, or revise the map to indicate that no wilderness characteristics exist.	Page 2-21 of the Supplement to the Draft RMP clearly identifies the non-WSA lands with wilderness characteristics that are analyzed as under Alternative E.	
State of Utah	G	189	19	The review form indicates that a juniper removal project is scheduled for 2007. Please clarify how this will be undertaken to avoid interfering with the appearance of naturalness within the treatment area.	See comment response 151-O-4.  Any potential surface disturbing proposals will require site-specific NEPA analysis and documentation.	
State of Utah	G	189	20	The map shows numerous routes in sections 27-28 and 33-35 of T3N, R24E. Please discuss these routes and the extent to which they compromise the appearance of	The RMP is a programmatic document that considers management decisions and impacts analyses on a landscape level, not a site-specific level.	

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				naturalness or "outstanding opportunities for solitude or a primitive and unconfined type of recreation".		
State of Utah	G	189	21	It is difficult to distinguish external nominations from BLM internal nominations. The inability to distinguish areas complicated any attempt to evaluate VFO's analysis. Please be more specific regarding nomination areas and the location of features within these areas.	All of the non-WSA lands with wilderness characteristics are external nominations. Locations for these lands are analyzed in Alternative E and are clearly portrayed in Figure 20.	
State of Utah	G	189	22	Cherry stemming roads that are "regularly used by trucks hauling water from the White River for oil and gas exploration and development" would not appear sufficient to protect "outstanding opportunities for solitude or a primitive and unconfined type of recreation." Please clarify how regular truck use can occur without compromising these values.	"Cherry stemming" is a land management technique that facilitates better land management by allowing ingress and egress without compromising a special designation. This technique is often applied to WSAs. However, the BLM is not proposing any WSAs under any alternative in the Vernal DRMP/DEIS.	
State of Utah	G	189	23	Based on the review form, it appears that there are 58 pending APDs within this area. This level of development does not appear compatible with "outstanding opportunities for solitude or a primitive and unconfined type of recreation". Please clarify how VFO would protect "outstanding opportunities for solitude or a primitive and unconfined type of recreation" in light of this level of development, including the ancillary facilities such as roads, pipelines and compressor stations that appear reasonably foreseeable.	The BLM's authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712). This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c)(2) (43 U.S.C. §1712(c)(2))) Further, FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land, and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c))) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, amongst the various	

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					<p>resources in a way that provides uses for current and future generations.</p> <p>The BLM has long acknowledged that FLPMA Section 603 (43 U.S.C. §1782) requiring a one-time wilderness review has expired. All current inventory of public lands is authorized by FLPMA Section 201 (43 U.S.C. §1711). In September 2006, the Utah District Court affirmed that the BLM retained authority to protect lands it determined to have wilderness characteristics in a manner substantially similar to the manner in which such lands are protected as WSAs.</p> <p>The BLM is aware that there are specific State laws relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, BLM is bound by Federal law. As a consequence, there may be inconsistencies that cannot be reconciled. The FLPMA requires that BLM's land use plans be consistent with State and local plans "to the extent practical" where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved. The BLM will identify these conflicts in the FEIS/PRMP so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options.</p> <p>Finally, the Utah v. Norton Settlement Agreement does not affect BLM's authority to manage public lands. This Agreement merely remedied confusion by distinguishing between wilderness study areas established under FLPMA §603 and those lands required to be managed under §603's non-impairment standard, and other lands that fall within the discretionary FLMPA §202 land management process.</p>	
State of Utah	G	189	24	It appears that an existing airstrip and several wells are within area 1, but have been cherry stemmed out. Please	See comment response 189-O-23.	

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		clarify how continued use of these facilities would be managed to protect "outstanding opportunities for solitude or a primitive and unconfined type of recreation."		

## ACECs, ONA, and RNA

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United States Environmental Protection Agency	G	6	4	<p>Alternative E is a new alternative similar to Alternative C that was developed for the RMP Draft EIS which would add protective management prescriptions for 277,596 acres of non-WSA lands with wilderness characteristics in 25 areas. This would include closing these areas to mineral leasing and off-highway vehicles, excluding rights-of-way, and protecting undisturbed landscapes and opportunities for primitive and semi-primitive recreation opportunities. We believe BLM should implement these management prescriptions for some of the ACECs located within non-WSA lands with wilderness characteristics in order to enhance protection of native vegetation, cultural, paleontological, and historic resources, scenic and ecological values, wildlife, and especially the rare and important riparian and stream-side resources in some of these ACECs. Specifically, this level of protection is needed in areas where significant environmental impacts are occurring or are likely to occur from oil and gas development and off-highway vehicle use. These areas include the lower Nine Mile Canyon and Desolation Canyon (which would complement adjacent protection for the upper Nine Mile Canyon ACEC currently under consideration in the Price RMP Supplemental Draft EIS), Lower Bitter Creek and Bitter Creek, PR Spring, Four Mile Wash, Middle and Lower Green River, White River, and the Periette wetlands ACECs. Non-WSAs with wilderness characteristics along the southern edge of the Booe Cliffs (Rat Hole, Cripple Cowboy, Sweet Water, Hideout Canyon, Mexico Point, and Wolf Point) deserve particular consideration for additional protection since these ecosystems are under represented in WSAs and such management would be consistent with similar protections afforded by the Uintah</p>	Comment noted.	

## ACECs, ONA, and RNA

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				and Ouray Nation within their adjacent Hill Creek extension area.		
United States Department of the Interior	G	7	1	Section 2.4.13 of the Draft RMP/EIS describes "Actions Common to All [Alternatives]." The management objectives for the Pariette Wetlands Area of Critical Environmental Concern (ACEC) are stated: "Manage to protect high value wetland and wildlife habitat resources" and "Manage as NSO and close to mineral material sales." We recommend in addition to managing the ACEC as NSO and closed to mineral material sales, that you incorporate the objectives from the 1991 RMP: ".Enhance and protect the wetlands community and associated habitat adjacent to Pariette and Castle Peak Washes, ensuring continued waterfowl production and no long-term deterioration of the water quality in ParietteW ash; reduce sedimentation to the Green River by stabilizing streambanks and water channels, while meeting the management objectives of the final recovery plans for the special status species associated with the area."	<p>Comment Noted.</p> <p>The 1991 Diamond Mountain RMP is within Managements options as it is part of the "No Action" alternative in the Vernal Draft RMP under Alternative D.</p>	
United States Department of the Interior	G	7	2	We further recommend developing a management plan for this ACEC that establishes a NSO conservation area designed specifically to provide long-term protection and recovery for special status plant species. The management objective for the ACEC should reflect the importance of the area for the listed cactus species.	<p>Activity Plans are defined under the BLM Land Use Planning Handbook H-1601-1 as:</p> <p>"A type of implementation plan; an activity plan usually describes multiple projects and applies best management practices to meet land use plan objectives. Examples of activity plans include interdisciplinary management plans, habitat management plans, recreation area management plans, and allotment management plans."</p> <p>This would include ACECs, SRMAs sensitive species habitat, etc.</p> <p>Furthermore, H-1601-1 further states:</p>	

## ACECs, ONA, and RNA

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					<p>“Upon approval of the land use plan, subsequent implementation decisions are put into effect by developing implementation (activity-level or project-specific) plans. An activity-level plan typically describes multiple projects in detail that will lead to on-the-ground action. These plans traditionally focused on single resource programs (habitat management plans, allotment management plans, recreation management plans, etc.). However, activity-level plans are increasingly interdisciplinary and are focused on multiple resource program areas to reflect the shift to a more watershed-based or landscape-based approach to management. These types of plans are sometimes referred to as “integrated or interdisciplinary plans,” “coordinated resource management plans,” “landscape management plans,” or “ecosystem management plans.” A project-specific plan is typically prepared for an individual project or several related projects.”</p>	
United States Department of the Interior	G	7	3	<p>The U.S. Fish and Wildlife Service will initiate a Recovery Plan review for the Uinta Basin hookless cactus in the fiscal year 2008. The goal of species recovery will likely only be met if habitat fragmentation within the relatively small range of this species can be minimized and/or mitigated effectively to ensure long-term species viability; existing habitat disturbance and fragmentation should be closely evaluated and remediated, The Recovery Plan will likely recommend measures designed to protect individual cacti as well as retain intact, undisturbed population centers within the ACEC. The Service has identified high cacti density areas within the ACEC and we recommend these areas have no new surface disturbance activities or increased surface usage.</p>	See Response to Comment 007-2-ACE.	

## ACECs, ONA, and RNA

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				Existing surface disturbances should be remediated as soon as possible to restore habitat connectivity. The goal within these population centers is to maintain the habitat necessary for the continued survival and recovery of the species. We propose these population centers be set aside and officially designated as NSO within the Pariette ACEC in the new RMP. The Service is available to assist with the identification and protection of cacti population centers.		
Duchesne County Commission	G	10	26	Page 4-80, Section 4.14.1.3.1, paragraph 1, last sentence: Because Alternative C would designate both ACEC's... Second paragraph: Just because Alternatives B and D would not designate such ACEC's we question if pinyon pine habitat and watershed health could be enhanced by other management tools. Is an ACEC absolutely necessary to protect these resources or will other tools do the job?	<p>Through FLPMA, BLM has authority to designate ACECs where special management attention is required to protect and prevent irreparable damage to important cultural, historic, or scenic values; fish and wildlife resources; or other natural systems or processes or to protect life and safety from natural hazards. Where ACEC values and wilderness characteristics coincide, the special management associated with an ACEC, if designated, may also protect "wilderness characteristics: (IM-2003-275). However, BLM policy directs that "an ACEC designation will not be used as a substitute for wilderness suitability recommendations: (BLM-M-16513). Wilderness characteristics were not considered relevant or important values when evaluating or designing management for potential ACECs.</p> <p>The RMP presents the various management strategies for achieving the desired range of alternatives. Size and management prescriptions vary between the alternatives. If the protection of the relevant and importance values "outweighs" the other resource uses then the ACEC was proposed under all the alternatives.</p> <p>The relevant and important values of the ACEC extend beyond the 160 acres within which the Old Growth Pinion Pine is located. These values include cultural resources,</p>	

## ACECs, ONA, and RNA

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					an important watershed, and a critical ecosystem for wildlife and migratory birds. As such, the area encompassed by the ACEC is larger than the 160-acre pinion forest.	
Duchesne County Commission	G	10	30	Page 4-104, Section 4.16.2.10.1: Alternative B seems to be left out of the analysis for the Coyote Basin and Four Mile Wash ACEC's.	The commenter is correct that the Alternative B analysis has been left out of the analysis. This will be updated in the Final EIS. Four Mile wash would not be designated under alternative B, and as a result would not impact, or would have the same impact as alternative D.	X
Duchesne County Commission	G	10	54	Pages 4-198 and 4-199, Section 4.21.2.9.3: In the paragraph associated with the Mine Mile Canyon ACEC and Desolation Canyon, it should be noted that 66% of this area is currently leased for energy development.	Comment noted The BLM declines to add the recommended language.	
EOG Resources, Inc.	B	144	4	<p>BLM Cannot Rely on SUWA's Wilderness Characteristics Proposals and Materials Submissions Under the Data Quality Act.</p> <p>Under the Data Quality Act, BLM is required to comply with OMB Guidelines designed to ensure and maximize the "quality, objectivity, utility, and integrity of information disseminated" from BLM to the public. See Section 515 of the 2001 Consolidated Appropriations Act, Public Lay 106-554/ With respect to the Supplement to the Vernal DRMP, it is apparent that BLM has relied to some extent upon data and information submitted by SUWA. This SUWA data/materials contains information that its suspect in quality and highly subjective.</p> <p>As a general matter, many of the SUWA's wilderness proposals to BLM are based upon a small number of pictures and limited text in a given area combined with SUWA's subjective judgments that these areas contain wilderness characteristics. SUWA has failed to provide ground-truthing to cover the entirety of the large swaths of</p>	FLPMA Section 201 gives BLM the authority to inventory for wilderness characteristics. Section 202 of FLPMA gives BLM the authority for planning how the public lands are to be managed. Section 302 of FLPMA gives BLM general management authority for the public lands. It is BLM policy (as stated in its planning handbook and in Instruction Memorandums 2003-274 and 2003-275 Change 1), that through planning, the BLM has addressed non-WSA lands with wilderness characteristics in the October 2007 Supplement to the DRMP/EIS. A Vernal Field Office Interdisciplinary Team reviewed the Non-WSA areas including Human-made disturbances. Where it was determined that the Human-made disturbances were substantially unnoticeable and did not diminished the naturalness of the area, the areas were then determined to have wilderness characteristics.	

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				<p>lands it seeks to designated as wilderness characteristics. As a result, literally thousands of the human imprints that exist within these areas have not been brought to the attention of BLM.</p> <p>As detailed above, one such example of SUWA's "wilderness proposal" is the western extension of the Desolation Canyon WCA. In its 2007 wilderness review, BLM states that SUWA's proposal contained "more detailed data" than BLM's previous inventories. SUWA's submission, was actually just comments on the revisions to the 1999 Reinventory, consisting of one short paragraph of text, one map, and one photograph.</p> <p>In contrast, the ground-truthing data provided by EOG, attached under Tab B, provides the requisite objectivity and quality of data needed for making wilderness characteristics determinations. Given the stark contrast between the nature of SUWA's assertions to BLM, and the ground-truthing data that exists with respect to these areas, BLM should not rely upon SUWA's information in its final decision making process for the Vernal RMP and Decision Record</p> <p>In sum, SUWA has not provided valid and complete data to substantiate their land use proposals. Their data submissions to BLM lack the requisite quality, objectivity, utility and integrity required under the Data Quality Act. Therefore, BLM is precluded from basing a wilderness characteristics designation based upon SUWA data, and cannot disseminated such a land use designation to the public in the Final Decision Record for the Vernal DRMP/</p>		
EOG Resources,	B	144	7	Many of the WCAs in the Vernal Resource Area overlap with proposed ACECs (i.e. Desolation Canyon WCA). In	"Layering" is planning tool. Under FLPMA's multiple-use mandate, the BLM manages many different resource	

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Inc.		<p>reviewing the WCAs, it is important for BLM to concurrently examine proposed ACECs. Many of the proposed ACECs are overbroad, and appear based solely on the presence of wilderness characteristics. BLM has not identified other substantially significant resources and values within these ACECs that meet the relevance and importance criteria detailed in 43 C.F.R. 1610.7-2(a) (explaining that under importance criteria, "substantial significance and values...requires more than local significance and special worth., consequence, distinctiveness, or cause for concern."). Rather, the resources identified are common throughout Utah and the Intermountain West.</p> <p>The BLM Manual on ACECs expressly instructs that: "An ACEC designation shall not be used as a substitute for a wilderness suitability recommendation." BLM Manual 1613 (emphasis added). BLM's ACEC Manual goes on to explain that:</p> <p>If an ACEC is proposed within or adjacent to a WSA, the RMP or plan amendment shall provide a clear description of the relationship of the ACEC to the recommendations being made for the WSA. The relationship shall be described to the level of detail required to avoid misunderstanding or misrepresentation by the public.</p> <p>BLM Manual 1613.</p> <p>The BLM IM regarding consideration of wilderness characteristics in land use plans explains, however, that if ACEC values and wilderness characteristics coincide, then special management prescription associated with an</p>	<p>values and uses on public lands. Through land use planning BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple-use concept, the BLM does not necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. The process of applying many individual program goals, objectives, and actions to the same area of public lands may be perceived as "layering". The BLM strives to ensure that the goals and objectives of each program (representing resource values and uses) are consistent and compatible for a particular land area. Inconsistent goals and objectives can lead to resource conflicts, failure to achieve the desired outcomes of a land use plan, and litigation. Whether or not a particular form of management is restrictive depends upon a personal interest or desire to see that public lands are managed in a particular manner. Not all uses and values can be provided for on every acre. That is why land use plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that all resource values and uses are considered to determine what mix of values and uses is responsive to the issues identified for resolution in the land use plan. Layering of program decisions is not optional for BLM, but is required by the FLPMA and National BLM planning and program specific regulations.</p> <p>The FLPMA directs BLM to manage public lands for multiple use and sustained yield (Section 102(a)(7)). As a multiple-use agency, the BLM is required to implement laws, regulations and policies for many different and often competing land uses and to resolve conflicts and prescribe land uses through its land use plans. The BLM's Land Use</p>	

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		<p>ACEC, if designated, may also protect wilderness characteristics. See BLM IM No. 2003-275, Change 1.</p> <p>As reflected by FLPMA, and expressly stated in FLPMA's implementing regulations, and BLM's IM: "to qualify for consideration of the ACEC designation, such values must have substantial significance and value, with qualities of more than local significance and special worth, consequence, meaning, distinctiveness, or cause for concern." BLM IM No. 2003-275, Change 1 (emphasis added); see also 43 C.F.R. 1610.7(a)(2) (explaining that under importance criteria, "substantial significance and values...requires more than local significance and special worth, consequence, distinctiveness, or cause for concern.").</p> <p>In sum, wilderness characteristics standing alone do not provide BLM with basis to designate an ACEC. To qualify for ACEC designation, the area must also contain other nationally significant resources and values. For these areas, if wilderness characteristics are not the central focus of the proposed ACEC, but exist concurrently with the special resource value to be protected, then management prescriptions may protect both.</p>	<p>Planning Handbook requires that specific decisions be made for each resource and use (See, Appendix C, Land Use Planning Handbook "H-1601-1"). Specific decisions must be included in each of the alternatives analyzed during development of the land use plan. As each alternative is formulated, each program decision is overlaid with other program decisions and inconsistent decisions are identified and modified so that ultimately a compatible mix of uses and management prescriptions result.</p> <p>For example, the BLM has separate policies and guidelines, as well as criteria, for establishing ACECs and when the WSAs were established. These differing criteria make it possible that the same lands will qualify as both an ACEC and a WSA but for different reasons. The BLM is required to consider these different policies.</p> <p>The values protected by WSA management prescriptions do not necessarily protect those values found relevant and important in ACEC evaluation, and vice versa. The relevant and important values of ACECs within or adjacent to WSAs were noted in the ACEC Evaluation (Appendix G). The ACECs are evaluated and ranked based on the presence or absence of the stated relevant and important values. None of these values includes wilderness characteristics. Additionally, the management prescriptions for the ACECs is limited in scope to protect the relevant and important values, and the BLM maintains that the size of the ACEC areas is appropriate for protection of the relevant and important values identified.</p> <p>On August 27, 1980, BLM promulgated final ACEC guidelines (45 Federal Register 57318) that clarify that the term "protects" means:</p>	

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			<p>“To defend or guard against damage or loss to the important environmental resources of a potential or designated ACEC. This includes damage that can be restored over time and that which is irreparable. With regard to a natural hazard, protect means to prevent the loss of life or injury to people, or loss or damage to property.”</p> <p>Thus, BLM is to consider the potential for both reparable and irreparable damage when protecting important historic, cultural, or scenic values; fish and wildlife resources; or other natural systems through ACEC designation. This interpretation is consistent with FLPMA’s legislative history and implementing policy. Section 2 of the guidelines clarifies that ACECs are special places within public lands. It states:</p> <p>“In addition to establishing in law such basic protective management policies that apply to all the public lands, Congress has said that ‘management of national resource lands [public lands] is to include giving special attention to the protection of ACECs, for the purpose of ensuring that the most environmentally important and fragile lands will be given early attention and protection’ (Senate Report 94-583, on FLPMA). Thus, the ACEC process is to be used to provide whatever special management is required to protect those environmental resources that are most important, i.e., those resources that make certain specific areas special places, endowed by nature or man with characteristics that set them apart. In addition, the ACEC process is to be used to protect human life and property from natural hazards.”</p>	

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					See Appendix G for information concerning relevance and importance on specific, existing or nominated ACECs.	
EOG Resources, Inc.	B	144	15	<p>Many of the WCAs in the Vernal Resource Area (i.e. Desolation Canyon WCA) overlap with proposed ACECs (i.e. Nine Mile Canyon, Lower Green River and Four Mile Wash ACECs). In reviewing WCAs, it is important for BLM to concurrently examine proposed ACECs. Many of the proposed ACECs are overbroad, and appear to cover solely wilderness characteristics. BLM has not identified other nationally significant resources and values within these ACECs. Rather, the resources identified are common throughout Utah and the Intermountain West. In sum, wilderness characteristics standing alone do not provide BLM with basis to designate an ACEC.</p> <p>For example, in the Vernal DRMP/EIS, BLM explained that the relevance criteria for the Four Mile Wash ACEC ws high value scenery, riparian ecosystem and special status fish. BLM explains that the importance criteria include "spectacular scenery" and home to endangered fish in the Green River. These resources are not nationally significant and can be found common throughout the Vernal resource area and Utah. The relevance and importance of this ACEC is confined to the Green River and is properly covered by the Lower Green River ACEC and/or the proposed protection of the Green River as a wild and scenic river. The purported protection of the lands on the plateau up from the Green River for "scenery" is an unlawful attempt to protect lands as an ACEC for "wilderness characteristics". This scenery is not nationally or regionally significant.</p> <p>Accordingly, designation of the Four Mile Wash ACEC would be unwarranted and unlawful. Since BLM has</p>	See Response to Comment 144-7-ACE.	

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				provided no further basis that resources to the west of the canyon rim are nationally significant, BLM should reduce the boundary of the ACEC to only the canyon rims.		
National Outdoor Leadership School	O	160	2	NOLS also recommends stricter language to preserve "important scenic values and wildlife resources." The current language in regards to the Middle Green River states that "special management attention would include permitting only those surface-disturbing activities that are found to be complementary to the goals and objectives of the ACEC. The area would be open to oil and gas leasing subject to standard lease terms or managed with timing and controlled surface use. Visual resources would be managed as VRM Class II, III, or IV. OHV would be limited to designated routes," (4-83). Allowing for development with standard lease terms and decreased Visual Resource Management (VRM) standards that are not consistent with ACEC management direction, which should avoid "irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards," (Vernal Draft Resource Management Plan, p. 2-28). Section 202(c)(3) of the Federal Land Policy and Management ACT (FLPMA) requires that priority be give to the designation and protection of ACECs. The Vernal Field Office should adopt more stringent management guidelines for ACECs in its final plan.	<p>The BLM declines to make the suggested wording changes for a variety of reasons including, but not limited to, the following:</p> <ol style="list-style-type: none"> <li>1. The BLM does not find the suggested changes necessary or appropriate.</li> <li>2. The suggested wording change does not substantively contribute to or clarify the discussion.</li> <li>3. The commenter did not provide any rationale why the suggested change is necessary or how the current data and analysis is incorrect.</li> <li>4. The suggested change expressed personal opinions or preferences.</li> <li>5. The suggested change had little relevance to the adequacy or accuracy of the RMP/EIS.</li> </ol> <p>The BLM considered a wide range of alternatives for and the language that states, "...only those surface-disturbing activities that are found to be complementary to the goals and objectives of the ACEC..." is sufficient. Within the range of alternatives the Middle Green River is also proposed as a Wild and Scenic River with the tentative classification of Recreational. This could afford additional protections if selected by management as part of the final plan within the Record of Decision.</p>	
The Wilderness Society	O	174	4	The BLM has identified these ACECs as meeting its criteria for possessing relevant and important values, which need special management to prevent their destruction and also identified the important benefits to other resources. The BLM should designate these ACECs to fulfill its obligations to prioritize designation of ACECs under FLPMA, as well as to meet its obligations to avoid	The FLPMA states that in developing land use plans the BLM shall give priority to the designation and protection ACEC. The BLM gave full consideration to the designation and preservation ACEC during this land use planning process. Nominations for ACECs from the public were specifically solicited during the scoping period. A total of 13 ACEC nominations were received and the relevance	

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				adverse environmental impacts and manage to protect the many values of the public lands.	<p>and importance of each were determined. Seven new and two expansions of the ACEC nominations were found to meet both the criteria of relevance and importance and all these were included for special management as proposed ACECs in Alternative C.</p> <p>The BLM Manual 1613.23 states that “After completing the analysis of the effects of each alternative, the manager selects the preferred plan alternative which best meets the planning criteria and the guidance applicable to the area. The preferred alternative reflects the BLM’s proposals for designation and management of ACECs.” The BLM has full discretion in the selection of ACECs for the various alternatives. In the selection of the preferred alternative, a comparison of estimated effects and trade-offs associated with the alternative leads to development and selection of the preferred alternative.</p> <p>The FLPMA further requires public lands to be managed under the principles of multiple use and sustained yield. This means that even though an area is determined to have relevance and importance as an ACEC, all other management options for the land are not automatically precluded. The BLM may choose to manage the lands in a manner that does not protect the relevant and important values identified during the ACEC review process, or that protect those values via management decisions that do not require an ACEC designation.</p>	
The Wilderness Society	O	174	7	We have nominated ACECs to conserve Graham’s penstemon and Pariette cactus, but, despite being described by BLM as including designation of all proposed ACECs, Alternative E does not include these ACECs and the Supplement again fails to acknowledge these nominations. BLM Manual 1613 specifically	<p>See Response to Comment 174-7-ACE.</p> <p>Appendix G outlines the process the interdisciplinary team underwent to determine whether a nominated ACEC had relevance and/or importance values. The appendix provides information concerning relevance and importance</p>	

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				requires that each area recommended for consideration as an ACEC, including from external nominations, be considered by BLM through collection of data on relevance and importance and evaluation by an interdisciplinary team; then, if an area is not to be designated, the analysis supporting the conclusion “must be incorporated into the plan and associated environmental document.” Manual 1613, Section .21 (Identifying Potential ACECs). The agency has not met these obligations, in the Draft RMP/EIS or either of the Supplements that it has prepared.	criteria for existing and nominated ACECs. The size of the proposed ACECs is limited only to the area(s) of geography where the relevance and importance values are manageable to protect and prevent irreparable damage. In the Proposed Plan, the potential ACECs generally do not have redundant special designations and/or other existing protections applied.	
The Wilderness Society	O	174	14	It is unclear what protection from oil and gas drilling the BLM intends to provide in the Coyote Basin ACEC. The Supplement states (at both p. 2-13 and p. 4-82) that: “This area would be subject to standard lease terms, and managed with timing and controlled surface use or NSO for oil and gas leasing.” This is an extremely broad range of options and does not provide any actual commitments to protective management for this alternative. The BLM must clearly identify which stipulations it will apply and what level of surface disturbance will be permitted under each alternative.	<p>The BLM has Identified a wide range of alternatives, contained within that range of alternatives are the options for management to choose from while formulating a site specific Activity Level plan for the Coyote Basin ACEC.</p> <p>Should the ACEC be designated the management tools chosen would have to be sufficient to protect the Relevance and Importance criteria identified for the ACEC and is not specifically based on surface disturbance.</p>	
Coalition to Preserve Rock Art	O	177	4	We are concerned that ACEC designation will inadvertently or intentionally publicize cultural resource locations not generally known. The smaller the ACEC borders, the higher the degree of concern. The BLM has a legal obligation under ARPA to protect site locations.	The BLM determines the appropriate acreage needed to protect and prevent irreparable damage to relevant and important values. Nominated ACECs or portions of nominated ACECs that failed to meet both relevance and importance criteria are not considered in the DRMP/DEIS. As noted in the DRMP/DEIS Appendix X: “In some cases the Interdisciplinary team review resulted in modified boundary configurations for some potential and existing ACECs based on the information provided in the nominations.	
Anadarko	B	188	4	In addition to the above, under Alternative E (page 2-14), BLM has proposed to designate a number of areas of	**UNIVERSAL, REVISE FOR VERNAL** The FLPMA states that in developing land use plans the BLM shall give	

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		<p>critical environmental concern (ACECs). Anadarko believes BLM has failed to clearly demonstrate that such areas qualify for protection as ACECs.</p>	<p>priority to the designation and protection ACEC. The BLM gave full consideration to the designation and preservation ACEC during this land use planning process. Nominations for ACECs from the public were specifically solicited during the scoping period. A total of 35 ACEC nominations were received and the relevance and importance of each were determined. Fourteen of the ACEC nominations were found to meet both the criteria of relevance and importance and all these were included for special management as proposed ACECs in Alternative B. The BLM Manual 1613.23 states that "After completing the analysis of the effects of each alternative, the manager selects the preferred plan alternative which best meets the planning criteria and the guidance applicable to the area. The preferred alternative reflects the BLM's proposals for designation and management of ACECs." The BLM has full discretion in the selection of ACECs for the various alternatives. In the selection of the preferred alternative, a comparison of estimated effects and trade-offs associated with the alternative leads to development and selection of the preferred alternative. The FLPMA further requires public lands to be managed under the principles of multiple use and sustained yield. This means that even though an area is determined to have relevance and importances as an ACEC, all other management options for the land are not automatically precluded. The BLM may choose to manage the lands in a manner that does not protect the relevant and important values identified during the ACEC review process, or that protect those values via management decisions that do not require an ACEC designation. The commenter fails to identify specific concerns with individual proposed ACECs. The BLM has identified, through and interdisciplinary team, the Relevance and</p>	

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					Importance criteria for each proposed ACEC.	
Uintah County	G	190	13	The ACEC concept gives BLM no authority to discontinue oil and gas development activities already approved under the existing Vernal and Diamond Mountain RMP's, this lies in the statutory definitions of ACEC's found in FLPMA, 43 U.S.C. 1702(a).	<p>The RMP and Supplement recognize all valid existing rights within the Vernal Planning Area and would not retroactively apply management prescriptions to existing rights that would conflict with the currently allowable activities accompanying those rights.</p> <p>Also, Section 1.4.1.2, Development of Planning Criteria, states that the Final EIS would recognize valid existing rights.</p>	
Uintah County	G	190	14	The conjunctive phrase "to protect and prevent irreparable damage to," mandates that ACEC designation is not appropriate when relevant values are merely subject to some impairment. The threatened negative effect on a give relevant value must rise to the level of outright damage to that value. Thus, the ACEC concept does not authorize the Secretary to manage a piece of public land for mere non-impairment of a perceived wilderness characteristic, as if it were or one day may become a Section 603 WSA. Any such attempt to extend, de facto, the non-impairment management mandate to non 603 WSA's in the name of an ACEC, is therefore groundless.	<p>On August 27, 1980, BLM promulgated final ACEC guidelines (45 Federal Register 57318) that clarify that the term "protects" means: "To defend or guard against damage or loss to the important environmental resources of a potential or designated ACEC. This includes damage that can be restored over time and that which is irreparable. With regard to a natural hazard, protect means to prevent the loss of life or injury to people, or loss or damage to property."</p> <p>Thus, BLM is to consider the potential for both reparable and irreparable damage when protecting important historic, cultural, or scenic values; fish and wildlife resources; or other natural systems through ACEC designation. This interpretation is consistent with FLPMA's legislative history and implementing policy. Section 2 of the guidelines clarifies that ACECs are special places within public lands. It states: "In addition to establishing in law such basic protective management policies that apply to all the public lands, Congress has said that 'management of national resource lands [public lands] is to include giving special attention to the protection of ACECs, for the purpose of ensuring that the most environmentally important and fragile lands will be given early attention and protection'</p>	

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					(Senate Report 94-583, on FLPMA). Thus, the ACEC process is to be used to provide whatever special management is required to protect those environmental resources that are most important, i.e., those resources that make certain specific areas special places, endowed by nature or man with characteristics that set them apart. In addition, the ACEC process is to be used to protect human life and property from natural hazards.”	
Uintah County	G	190	15	The term "important" in the phrase "important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes," shows that the values sought to be protected must have some objectively recognized importance in order to justify ACEC designations and protection. The Vernal RMP Administrative Draft fails to demonstrate or articulate how the values identified in the proposed ACEC's meet this "importance" threshold.	BLM considered the acreage needed to protect and prevent irreparable damage to relevant and important values. Nominated ACECs or portions of nominated ACECs that failed to meet both relevance and importance criteria were not considered in the Draft RMP/EIS alternatives.	
Uintah County	G	190	16	<p>These other management tools combine with the ACEC proposals to further restrict oil and gas activities on public lands, raising the following additional legal problems under FLPMA:</p> <ol style="list-style-type: none"> <li>1. Any combinations of the above-described management tools which eliminate one or major uses for two or more years on tracts of public land in excess of 100,000 acres, must be reported to the House and Senate for potential veto. 43 U.S.C. 1712(3)(2).</li> <li>2. Regardless of the size of the affected land, any combination of the foregoing management tools which eliminate major uses such as oil and gas exploration arguably constitute a withdrawal triggering FLPMA's withdrawal provisions.</li> </ol>	Comment noted. The lands closed to leasing are not proposed to be withdrawn. Therefore the Department of the Interior would not be required to follow the FLPMA process noted in the comment. If the FEIS contains a decision to withdraw lands from mineral entry that are 5,000 acres or more in size, then the process noted would have to be followed.	

## Air Quality

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United States Environmental Protection Agency	G	6	3	<p>In our 2005 letter, EPA noted that the Preferred Alternative could result in approximately 8,000 additional acres of public lands which may become available for oil shale development. This is now the subject of the programmatic Draft EIS for future oil shale and tar sands leasing on public lands which was issued by the Interior Department this month and is currently being reviewed by EPA. In 2005, BLM's Draft RMP/EIS indicated a high to moderate potential for oil shale development in the next 15 years anticipation one or two small-scaled pilot projects. At that time, Oiltech Corporation was running a pilot-scale oil shale project near Bonanza, Utah and Shell Oiled Company was conducting a pilot-scale oil shale operation near Meeker, Colorado. We suggested in 2005 that the potential impacts to regional air quality from these projects be evaluated in the Final EIS bases on the emissions information available from these two pilot-scale operations. Since that time, several additional proposed oil shale and tar sand pilot projects have been proposed on state-owed school trust lands within the Vernal Planning area, including two surface retorting proposals for oil shale recovery: 1)Red Leaf Resources located north of Bonanza, and, 2)Millennium Synfuels, LLC (formerly Oiltech Corp.) located approximately five miles east of Bonanza. In addition, there is a proposed tar sands recovery pilot project under consideration by Nevtah/Black Sands Holding Company near the community of White Rocks north of Roosevelt. (We note that the proposed pilot project by the Oil Shale Exploration Company at the former U-a Tract has been the subject of two EAs by BLM and as a result the air emissions from this project have been included in BLM's air quality analysis for the basin.) EPA will need to</p>	<p>Comment noted. See section 4.11.1, 4.13.1.3, 4.13.1.5 and 4.16.2.2.</p> <p>This is a programmatic document providing analysis for the next 10-15 years, the life of the document.</p> <p>See section 2.4.13.2 last sentence "BLM would adhere to criteria outlined in the Colorado River Salinity Control Act.". In BLM NEPA air quality analyses, BLM includes reasonably foreseeable development (RFD) on BLM land, and reasonably foreseeable future actions (RFFA) on lands outside the project area. It is not possible at this point to know whether any of the proposed projects mentioned by EPA (save the Oil Shale Exploration Company project, assuming this was properly included in prior AQ assessments) are RFD or RFFA sources. We do not include any and every "proposed" project until reliable (non-hypothetical) source characteristics and locations are available to include in emissions inventories or air quality models, as appropriate.</p> <p>EPA does not coordinate BLM NEPA air quality analyses. BLM is ultimately responsible for the analysis and we make all final decisions regarding the analysis in consultation and coordination with EPA and other sister agencies.</p>	

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				coordinate the air quality analysis of the direct and cumulative impacts of these additional oil shale and tar sand projects with the Vernal Field Office. We also suggest the BLM consider including these additional oil shale and tar sands projects in you ongoing air quality analysis currently under development.		
United States Environmental Protection Agency	G	6	6	Quantitative estimates of future conditions, or relative differences in qualitative estimates of those conditions showing change over time would be helpful to understand the impacts to air quality, wildlife habitats, vegetation, water quality, and other environmental resources'. Because fine particulate matter in the Vernal area could approach the or exceed the National Ambient Air Quality Standards for particulate matter smaller than 2.5 microns (PM2.5), additional information on fine particular matter conditions should be provided in the final RMP/EIS.	Speculation of this sort by EPA about source-receptor relationships "could approach the [sic] or exceed the National Ambient Air Quality Standards for particulate matter smaller than 2.5 microns (PM2.5)" is not a basis for conducting a quantitative (presumably modeling) analysis. BLM takes into account the available and necessary information to decide what level of air quality analysis is appropriate on a project-by-project basis, because each project is unique.	
United States Environmental Protection Agency	G	6	8	(The Draft EIS indicates that there is high to moderate potential for oil shale development in the next 15 years anticipating one or two small-scale pilot projects. Currently Oiltech Corporation is running a pilot-scale oil shale project near Bonanza, Utah and Shell Oil Company is conducting a pilot-scale oil shale operation near Meeker, Colorado. Since BLM is provided the opportunity to lease additional public lands for the development of oil shale at this time, we request that the potential impacts to regional air quality from these projects be identified in the Final EIS based on the emissions information now available from these two pilot scale operations.	See response to 6-3. An engineering and air quality review would be needed to determine whether the projects are reasonably foreseeable or if the existing projects for an adequate basis for estimating emissions from the proposed project, assuming they are reasonably foreseeable..	
United States Environmental	G	6	9	Cumulative Air Quality Impacts of Reasonably Foreseeable Future Actions: Significant cumulative	Table 5-66 from the AQ TSD for Vernal/Glenwood is presented at the end of this table. The table shows that	

## Air Quality

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Protection Agency				<p>visibility Impairment associated with mineral and energy development was identified. The Draft EIS describes the inventory sources and BLM sources and the Technical Support Document for Air Quality provides more information on how these sources were modeled. Background concentrations were added to the emissions associated with reasonably foreseeable development and the impacts of Alternative B to estimate potential cumulative air quality impacts. The Draft EIS concludes that the existing emissions, when combined with emissions from Reasonably Foreseeable Future Actions (RFFA ) would cause only negligible air quality impacts, however, these findings are based on an air quality analysis that appears to be incomplete. The air quality analysis may provide a low estimate of the potential emissions of nitrogen oxides (NOx) from compressor engines located within the "Indian Country" that comprises a large portion of the Vernal Planning Area. We suggest that actual emissions rates from compressors stations within Indian Country be assessed and used to describe a range of potential emissions rates of NOx from these sources.</p>	<p>there are up to 1 day of cumulative potential visibility impacts from all sources at the sensitive receptor areas listed (Any area not listed in this table did not have significant impacts in the screening analysis). Direct project (BLM) sources showed no impact at any of these receptors.</p> <p>BLM NOC air quality staff does not believe that 1 day with a &gt; 1.0dv impact is significant given inherent uncertainties and the conservatism built into the modeling. The regional haze rules state that all class I areas are to have no man-made impact on visibility by the year 2064, not sooner. There is no legal basis for EPA demanding a threshold of zero days of visibility impact from the project and alternatives.</p> <p>Note that BLM use a threshold for potential visibility impacts is ~10% change in extinction (1.0 dv). The results vs. the 0.5 dv are presented only as a courtesy to other FLMs that use the 0.5 dv threshold in their PSD permit analyses and are included in the TSD only.</p>	
United States Environmental Protection Agency	G	6	10	<p>we also suggest that several additional reasonably foreseeable future sources of air emissions in the West Tavaputs Plateau RFD area be included in any revised air quality modeling effort to be provided for future project analysis. For A example, in 2004, Petroglyph Oil and Gas Company proposed 8008 steam injection wells on 2.5 acre spacing in the Antelope Field. This proposed plan for oil development using steam recovery was submitted to the Bureau of Indian Affairs in 2004 and it includes the estimated emissions of certain air</p>	<p>There is no plan for any further modeling for the Vernal RMP EIS. Some of these sources may be included in the upcoming Uinta Basin AQ Study.</p>	

## Air Quality

Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
				<p>pollutants.</p> <p>This oil and gas development project could be reasonably foreseeable if the 288-well pilot project currently under development proves to be economically and technically feasible. Further, in 2001, the Northern Ute Tribe leased 83,000 acres to the Dominion Exploration and Production, Inc. on lands known as Naval Oil Shale Reserve No.2. This land is adjacent to the Green River and is surrounded by lands currently producing gas reserves from the Uinta Basin geologic section. It is reasonably foreseeable that these lands will be developed for gas production in the near future.</p> <p>We also note that gas pipeline capacity will soon increase in the region. See for example the proposed Entrega Pipeline Project which was the subject of an EIS in March 2005 by the Federal Energy Regulatory Commission. This pipeline project is a 327-mile long natural gas pipeline from Meeker, Colorado north to Wamsutter, Wyoming and east long I-80 to the Cheyenne Hub. The 36-inch and 42-inch diameter pipeline will provide increased capacity for gas transportation to producers in the Uinta Basin of Utah.</p>		
United States Environmental Protection Agency	G	6	12	<p>EPA supports BLM revising the air quality model as part of this Draft EIS. EPA requests that RFFA be expanded to include proposed major energy developments on the Uintah and Ouray Reservation. We suggest that those lands and other developments be evaluated as part of the next NEPA compliance document prepared for major energy development by BLM within the Vernal Planning Area. EPA requests that BLM work closely with us to assure that a revised air quality analysis is performed to evaluate cumulative impacts from all of</p>	See previous response to 6-10.	

## Air Quality

Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
United States Environmental Protection Agency	G	6	13	<p>the RFFA projects that could adversely affect regional air quality.</p> <p>Nitrogen oxide emission rates in Indian Country The near field modeling analyses for the Draft EIS used the NOx emission rates of either 1.5 gram per horsepower-hour (g/hp-hr) or 0.7 g/hp-hr for Utah-permitted new compressor engines. However, many compressor engines associated with RFFA may be located on Indian country lands within the exterior boundaries of the Uintah and Ouray Indian Reservation. Such sources will be subject to the requirements of - EPA as the permitting aJ1dre regulatory authority. It is likely that many of the new compressor engines added as a RFFA within "Indian Country" will be considered minor sources under the Clean Air Act. Although EPA is considering a rulemaking to allow air permits for minor sources in Indian Country, it is not clear at this time how many new compressor engines would be required to obtain an air quality permit. If no permit is required, the assumption of restricting NOx remission limits within the range assumed for the air quality analysis cannot be assured. We suggest that BLM assisted by EPA evaluate NOx emission rates of recently installed compressor engines in Indian Country on the Uintah and Ouray Reservation in order to establish the range of emissions to be used for RFFA within Indian Country. Information available to EPA indicates that field compressor engines on the Uintah and Ouray</p>	The use of the 0.7 g/hp-hr figure was requested by the Utah Division of Air Quality (UDAQ).	

## Air Quality

Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
				Reservation emit NOx in the range of 2 to 28 g/hp-hr. This information would then be used in a revised air quality modeling effort for any future NEP A analysis of large-scale energy projects within the Vernal Planning Area.		
United States Environmental Protection Agency	G	6	14	<p>Visibility. Section 4.2.2.6.7.4 explains that the screening analysis for visibility showed no reduction in visibility at Class I areas due to BLM sources alone. The Technical Support Document is consistent with this statement. Table 4.2.7 shows cumulative visibility impacts and combines results of the screening analysis with results of a refined analysis. BLM conducted a refined analysis in cases where the screening analysis showed impacts. An error in the text accompanying table 4.2.7 refers to "the screening visibility analysis" and could lead the reader to believe that a screening analysis resulted in no perceptible visibility impacts. Table 5-65 of the Technical Support Document reveals the results of the screening analysis of cumulative visibility impacts. The analysis showed potential days of visibility reductions greater than 1.0 deceive (dv) at the Arches National Park Class I area (one day) and at the Class II area of Dinosaur National Monument (three days). (Additional days of reduced visibility were modeled for sources in the Glenwood Springs planning area.) One of the three days of cumulative visibility impact greater than 1.0 dv at Dinosaur National Monument resulted only when emissions from BLM sources were added to those of the inventory sources. In</p>	<p>Table 4.2.7 and the text accompanying will be changed to reflect the appropriate analysis.</p> <p>Visibility modeling for Class II areas is done as a courtesy to the responsible FLM. Class II areas have no visibility protect under State or Federal Law.</p>	X

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				other words, the potential impact of the BLM sources tipped the balance and caused potential cumulative impacts to exceed 1.0 dv. Please revise the text accompanying table 4.2.7 to show that the screening analysis showed potential visibility impacts that disappeared in the refined analysis.		
United States Environmental Protection Agency	G	6	15	<p>Ozone. The DEIS mentions ozone in the context of prescribed burning. Table 3.2.3 lists the criteria pollutants but excludes ozone. (While the DEIS does not discuss lead, sources in the planning area are likely to emit little if any lead.)</p> <p>Current development in the planning area includes sources of volatile organic compounds (VOC's) and oxides of nitrogen (NOx), which are ozone precursors. The model used by BLM for the air quality analysis (i.e., CALPUFF) was not suitable for estimating ozone impacts. However, we recommend that the FEIS address ozone and specify that project-level NEPA compliance documents will estimate potential ozone impacts.</p>	The protocol for the air quality modeling was prepared in consultation with EPA R8, NPS, FS, FWS and the State air quality agencies from Utah and Colorado. When the CDPHE-AQD submitted comments on the protocol, they discussed ozone and said the following in their comments re: ozone modeling: "This section states that ozone will not be modeled during this project. The Air Pollution Control Division agrees that ozone modeling is outside the scope of this project." (Chick 2002)	
United States Environmental Protection Agency	G	6	16	<p>Prescribed Fire. We appreciated that the Draft EIS addressed the air quality effects of prescribed fire. We suggest that the FEIS indicate that project-level NEPA documents will be needed for prescribed fire treatments which can address EPA's Interim Air Quality Policy on Wildland and Prescribed Fires. The FEIS should also further analyze the need that project-level NEPA documents for prescribed fire address alternatives that meet the purpose but also minimize smoke and its impact, such as mechanical reduction of fuel build-up and for pretreatment before burning, limiting the amount burned at any one time, and implementing hazard awareness and mitigation</p>	Through land use planning, BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple-use concept, the BLM does not necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. Site-specific analyses of project-level work, implementation plans, or integrated activity plans are conducted after the Land Use Plan is approved. Appropriate standards and guidelines are utilized in completion of the site-specific NEPA documents.	

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				programs for the public.		
United States Environmental Protection Agency	G	6	37	Section 3.2.2, Baseline Air Quality page 3-4: According to the first sentence of section 3.2.2 of the DEIS, the Vernal Planning Area is "designated as being in attainment" for the National Ambient Air Quality Standards. (Section 4.2 begins with a similar sentence.) The area technically is "unclassifiable" in the case of PM10 and "unclassifiable/attainment" for other pollutants (see 40 CFR Part 81). Please revise this portion of the DEIS. Also, please revise "air-born" to "airborne.)	This change has been made in the proposed RMP and final EIS.	X
United States Environmental Protection Agency	G	6	38	Section 3.2.4.2, Criteria for Background Concentrations, pages 3-4 through 3-8 The DEIS presents different data on existing air quality (Table 3.2.1) and background concentrations for modeling purposes (Table 3.2.6). The two tables present data on the same pollutants from different air monitoring stations. In the case of PM10, Table 3.2.1 gives an annual concentration of 3.3 ug/m3, while Table 3.2.6 gives an annual concentration of 10 ug/m3. Table 3.2.1 gives an annual NO2 concentration of 41 ug/m3 (0.022 ppm) and Table 3.2.6 gives an annual NO2 concentration of 10 ug/m3 (0.005 ppm). Please revise the Final EIS to clarify the reasons for using different sources of data.	The tables have changed to present a single set of background data in the proposed RMP and final EIS ( see table 3.2.6.	X
United States Environmental Protection Agency	G	6	39	Section 3.2.4. Regional Air Emissions. Page 3.5 This section of the DEIS generally, describes the emissions inventory for the planning area. It covers point sources but does not mention such emissions as dust from construction activities and roadways, which were included in the modeling effort according to the Air Quality Assessment Report. Please revise this section to address fugitive dust emissions	Fugitive dust emissions have been added to section 3.2.4.	X

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United States Environmental Protection Agency	G	6	40	Section 3.2.4.2, National Ambient Air Quality Standards, page 3-4 Please revise the reference to NAAQS as "absolute" upper limits. Alternative wording could be: "The National Ambient Air Quality Standards( NAAQS) and Utah Air Quality Standards are health-based criteria for the maximum acceptable concentrations o air pollutants at all locations to which the public has access.	BLM will retain the original language.	
United States Environmental Protection Agency	G	6	54	Air Quality -Technical Support Document (Air Quality Assessment Report). 1) National Park Service Reference. Please correct the date in the footnote to Table 3-24. 2) Increment Comparison Results. The value for three-hour SO2 concentrations under "GMA BLM Sources Only" (Glenwood Springs Management Area) in Table 5-12 differs by an order of magnitude from the corresponding values in Tables 5-13 through 5-16 and might be a typographical error. Please check this value and revise if necessary.	<ol style="list-style-type: none"> <li>1. The footnote is correct as written.</li> <li>2. If the TSD is revised for the final, this item will be checked and changed as necessary.</li> </ol>	
United States Environmental Protection Agency	G	6	1	The Final EIS/RMP will need to assess the cumulative impact from all reasonably foreseeable development particularly for air quality impact that could adversely affect visibility in protected areas and to help assure that the National Ambient Air Quality Standards (NAAQS) are maintained, especially for pollutants such as fine particulate matter (known as PM2.5) and ozone (O3) during these future development conditions.	A cumulative air quality analysis was performed. See section 4.	
United States Environmental Protection Agency	G	6	2	Not that the daily PM2.5 NAAQS was lowered in October, 2006, from 65 ug/m3 to 35 ug/m3. The assessment should reflect this new lowered standard for the 24-hour particulate matter criteria.	The modeling analysis was completed well before this change occurred.	
Daggett County	G	11	5	We feel it is important to install air quality monitoring stations. We are aware that there is an air quality	<ol style="list-style-type: none"> <li>1. BLM shares EPA's concern about the lack of monitoring in Eastern Utah and will consider establishing additional</li> </ol>	

## Air Quality

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				<p>monitoring station in Vernal. We do not believe that one air quality station accurately reflects the conditions of the Uintah Basin. We encourage BLM Vernal Field Office to request operators apply best available control technology and to install air quality monitoring stations within, or adjacent to, major field development to establish an air quality baseline and to detect deviations from such baseline.</p> <p>A proper baseline should be established. Absence of such a base line undermines the quality of any such worse-case scenarios. According to air quality expert Howard Vickers, "a slight variation in how data is presented can alter greatly and sometimes unfairly, the analysis of air quality." He states, "Small differences in data or modeling technique can produce substantial problems with the results." It is important to the County, as stake holder, that we be involved in any air quality analysis that is done so that we can be assure that proper modeling and data techniques are used.</p>	<p>monitoring sites in the region as circumstances and resources allow.</p> <p>2. NEPA no longer requires "worse [sic]- case scenarios.</p> <p>3. The County is welcome to be a formal cooperating agency on future NEPA analyses.</p>	
The Wilderness Society	O	174	32	<p>The Draft RMP and the Supplement fail to address or even acknowledge the well documented and significant costs associated with off-road motorized recreation.</p> <p>Air Pollution – An often overlooked effect of off-road motorized recreation is the air pollution and fossil fuel demand created by such types of recreation. The EPA (Fritsch 1994) estimates that small engines account for 5% of total air pollution, with a significant portion of this being contributed by OHVs. Air pollutants from OHVs include reactive organic gases (ROG) and oxides of nitrogen (NOx), the precursors of ozone; oxides of sulfur (SOx); and carbon monoxide (CO).</p>	Non-substantive. This is a statement, not a comment.	
State of Utah	G	189	1	The state encourages the BLM Vernal Field Office to	The BLM will consider incorporating these items as COAs.	

## Air Quality

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		<p>impose these emissions standards as lease conditions for all new and relocated engines, and as conditions of approval for all new APDs. These standards would positively impact air quality, facilitate continued action, and would be consistent with neighboring state jurisdictions.</p>	<p>However, the state air quality agency is the authority for setting emissions standards in Utah. BLM can not unilaterally impose emissions limits on any source without the permission and cooperation of the UDAQ.</p>	

## Consultation and Coordination

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United States Environmental Protection Agency	G	6	17	Vernal Planning Area includes the Uintah and Ouray Reservation. It is not clear how the Northern Ute Tribe has been involved in the preparation of the document. We suggest particular focus be applied to the reasonably foreseeable future actions, particularly large-scale energy development by the Northern Ute Tribe as noted in our cover letter.	Section 5.3 in the Draft RMP as well as Section 5.2.1 of the PRMP documents the specific consultation and coordination efforts with Native American Tribes undertaken by the BLM throughout the entire process while developing the PRMP/EIS.	
United States Environmental Protection Agency	G	6	20	Section 1.4.4, Steps 5-7: RMP/ETS: The second to the last sentence states that the "RMP will be reviewed by the Utah State Governor for consistency with state land use plans." The RMP should also be reviewed by the Northern Ute Tribe to determine consistency with tribal land use plans.	The Northern Ute Tribe was provided an opportunity to review and comment on the SEIS during a 90-day comment period ending on January 3, 2008. In addition, the Northern Ute Tribe was provided an opportunity to review and comment on the PRMP/EIS during a 3-week comment period ending on May 16, 2008. In accordance with the National Historic Preservation Act, Executive Order 13175, other federal legislation and BLM policy, the BLM Vernal Field Office (VFO) will continue to consult with Native American Tribes regarding any undertaking of the VFO that has the potential to affect resources that are important to the Tribes. This consultation affords the Tribes the opportunity to identify for the BLM any concerns and suggest any additional identification or evaluation measured deemed appropriate to the undertaking. In addition BLM will comply with Executive Order 13007, Indian sacred sites, consultation and also comply with manuals 81-20 and H-8120-1.	
United States Environmental Protection Agency	G	6	21	Section 1.5, Relationship to Other Programs, page 1-13: This section should also reference Northern Ute Tribal plans and policies.	The Ute Tribe has worked as a Cooperating Agency throughout this planning process and has been intimately involved with the land use planning process. The Ute Tribe assisted Field Office specialists in the analysis of sections of the DEIS and has provided social and economic expertise and advice. The BLM has consulted with the Ute Tribe concerning planning issues; particularly, the leasing of split estate lands such as the Hill Creek	

## Consultation and Coordination

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					Extension. The administration of Ute Tribe surface is beyond the scope of this document.	
United States Environmental Protection Agency	G	6	22	The document notes that "wherever possible, BLM decisions old be consistent with or complimentary to the management action arising from a number of programs, plans, and policies. However, the Environmental Assessments and Findings of No Significant Impact completed by the Bureau of Indian Affairs for large-scale oil and gas development within the Uintah and Ouray Reservation have not been specifically included in this list.	The BLM only lists those oil and gas developments where it has jurisdiction. Including EISs and FONSI's completed by the BIA or any other agency is beyond the scope of this planning document.	
Independent Petroleum Association of Mountain Stat	B	154	12	The Supplement does not discuss how WCAs will affect state, fee and tribal surface and mineral owners for equitable multiple use of non-federal lands.	Mineral and Energy Resource impacts are thoroughly discussed in Section 4.8. Impacts to and from WSAs are described in Section 4.14.3.	
	O	180	3	Additionally, Native Americans, particularly Utes, use these roads to access certain historic and prehistoric sites because these places retain religious and cultural significance. Preservation of access to such places is imperative for the continuing survival of traditional tribal values and culture. No roads should be closed without consultation with all Native American Tribes. The BLM's policy should comply with the American Indian Religious Freedom Act; Executive Order 13007; Indian Sacred Sites; Executive Order 13175: Consultation and Coordination with Indian Tribal Governments, and all other federal laws, regulations and executive orders that recognizes the "unique relationship" between the federal government and Indian tribes (see Advisory Council on Historic Preservation Policy Statement, dated November 17, 2000, regarding relationships with Indian Tribes).	In accordance with the National Historic Preservation Act, Executive Order 13175, other federal legislation and BLM policy, the BLM Vernal Field Office (VFO) will continue to consult with Native American Tribes regarding any undertaking of the VFO that has the potential to affect resources that are important to the Tribes. This consultation affords the Tribes the opportunity to identify for the BLM any concerns and suggest any additional identification or evaluation measured deemed appropriate to the undertaking. In addition BLM will comply with Executive Order 13007, Indian sacred sites, consultation and also comply with manuals 81-20 and H-8120-1.	
State of Utah	G	189	10	As more specifically set forth below, SITLA believes that the Supplement fails to address adequately these two major issues: the impact of BLM management decisions	The Supplement, along with the Draft RMP, constitutes the complete DRMP. Impacts of BLM decisions on state trust lands are discussed in Section 4.12 (Socioeconomics).	

## Consultation and Coordination

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				on state trust lands, and the need for a substantially more robust program for land tenure adjustments between the BLM and the State of Utah. BLM has an obligation to include in its planning an effective and timely means of addressing the impact of federal land actions on in-held state trust lands.	Section 4.6.1.1 of the Draft RMP provides a thorough discussion of land tenure adjustments between the BLM and the State of Utah.	
Utah Archeological Research Institute, Inc.	O	191	3	Native Americans, particularly Utes, use these roads to access certain historic and prehistoric sites because these places retain religious and cultural significance. Preservation of access to such places is imperative for the continuing survival of traditional tribal values and culture. No roads should be closed without consultation with all Native American Tribes. The BLM's policy should comply with the American Indian Religious Freedom Act; Executive Order 13007: Indian Sacred Sites; Executive Order 13175: Consultation and Coordination with Indian Tribal Governments, and all other federal laws, regulations and executive orders that recognizes the "unique relationship" between the federal government and Indian tribes (see also Advisory Council on Historic Preservation Policy Statement, dated November 17, 2000, regarding relationships with Indian Tribes.	See comment response 191-O-3.	

## Cultural Resources

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United States Environmental Protection Agency	G	6	24	Section 2.4.3.2, Cultural Resources -Action Common to All- page 2-7: This section should also include consultation with the Tribal Historical Preservation Office (THPO).	The Area of Potential Effect for any project is determined in consultation with the appropriate SHPO/THPO in accordance with 36 CFR 800.4(a) (1). This occurred upon initiation of the Section 106 consultation process for this RMP.	
Steven C. Hansen	I	161	1	The value of the scientific data and the educational opportunities that this area provides is a result of the fact that today this area remains roadless. It has been made clear from wilderness and archaeological research that the greater the number of people who have access to unique and delicate cultural sites, the higher the probability that the sites will be vandalized. Research confirms this fact (Spangler, Jerry: Site Condition and Vandalism Assessments of Archeological Sites, Lowe and Middle Arch Canyon; Colorado Plateau Archaeological Alliance 2006). I shudder to think of what will happen to the region's archaeological/anthropological footprint if trails and roads are modified to accommodate industrial activity. Rock art, habitation sites, storage granaries, and more than have remained pristine for thousands of years will be rapidly compromised and damaged if energy development and off-road vehicle access are allowed to encroach into the area.	The DRMP/DEIS acknowledges that the illegal activities, such as vandalism and looting, may be impacted by changes in access, as is specifically identified. In particular the DEIS notes that increased access to cultural sites could increase contact by visitors who could intentionally damage sites by collecting surface artifacts, vandalizing, illegally digging, or otherwise excavating the sites. The DRMP/DEIS does analyze under the various alternatives the illegal activities in association with the level of access as restricted by the alternatives and does not imply that illegal activities are restricted solely to the areas adjacent to the OHV routes. During the development of the RMP, cultural resource conflicts were considered during the route identification process. Allocation of law enforcement presence for closed routes is an Administrative Action by the BLM and does not require a specific planning decision to implement	
Brenda Durant	I	165	2	I have consulted with J. Claire Dean of Dean and Associates Conservation Services. Ms. Dean has over 27 years of experience in rock art and archeological conservation. Ms. Dean states that industrial traffic can damage rock art in several ways. Dust accumulates on the rock surface. The natural hydrology of the rock lays down a mineral layer on the rock surface which may mix with the dust and essentially coat the rock art, reducing the visibility of the petroglyphs. The extent and amount of damage depends on the geologic and hydraulic	Currently the BLM is working with Constance Silver, a leader in rock art conservation with over 26 years of practical experience. She has completed a preliminary report on the impact of dust generated by industrial traffic on dirt roads in Nine Mile Canyon. Her preliminary Dust Study report is available as Appendix G of the PFO WTP DEIS. Her work is considered pioneering research, prior to Connie's work in Nine Mile Canyon; there has been almost no scientific literature on the effects of dust on rock art specifically. Although the research remains in progress, it	

## Cultural Resources

Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
				<p>characteristics of the rock surface. Without studying these characteristics, the BLM cannot know whether or not energy development will damage or destroy world class cultural resources. Your plans do not discuss or even mention these important factors in your energy development plans. Further, without such research, no development should occur where rock art would be exposed to industrial dust.</p> <p>Another consideration, entirely neglected by the BLM draft management plan, is the impact of wind-blown dust on the surface of rock art. In Nine Mile Canyon, industrial traffic has caused 30 foot plumes of dust which have covered panels on high cliff surfaces. Ms. Dean states that wind-blown dust and sand act like an abrasive on rock surfaces. The rock art literally can be sanded off the surface with cumulative and continual sand blasting. I saw no mention of this danger in your consideration of energy development in cultural resource areas.</p> <p>In Nine Mile Canyon, magnesium chloride has been used as a dust suppressant. This salt may introduce further risk to the rock art. Magnesium chloride could cause fractures in the rock surface, again damaging or destroying the rock art.</p> <p>I have discussed dust resulting from industrial traffic, but ORV's and ATV's may also cause sufficient dust to do damage to rock art. URARA recommends that no roads or trails be further designated within one quarter mile of rock art. We feel this is a conservative request without the benefit of necessary research.</p>	<p>has been concluded that the degraded sections of road are generating large amounts of particulates as industrial traffic passes. The preliminary results show that the accumulation of dust on rock art panels located in close proximity to roads experiencing high levels of traffic does have a harmful effect on the physical integrity and visual aesthetic of the rock art. Ms. Silver has alerted BLM and other agencies to be aware of the potential for damage that magnesium chloride may present. Ms. Silver's Final Report will be available as an appendix in the Final EIS for the West Tavaputs Plateau to be released in Fall of 2008. At this time, BLM has never approved the use of magnesium chloride in association with dust control on BLM system roads within the canyon bottoms. The Nine Mile Canyon road is county maintained. In the WTP DEIS, it is discussed as an alternative to ongoing dust suppression or due to safety considerations; certain road sections may be improved with hard surfacing, such as asphalt or chip-seal, or other materials as approved by the BLM or counties as appropriate.</p>	
Diane G. Orr	I	166	2	I have consulted with J. Claire Dean of Dean and Associates Conservation Services. Ms. Dean has over 27	Currently the BLM is working with Constance Silver, a leader in rock art conservation with over 26 years of	

## Cultural Resources

Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
				years of experience in rock art and archeological conservation. Ms. Dean states that industrial traffic can damage rock art in several ways. Dust accumulates on the rock surface. The natural hydrology of the rock lays down a mineral layer on the rock surface which may mix with the dust and essentially coat the rock art, reducing the visibility of petroglyphs. The extent and amount of damage depends on the geologic and hydrologic characteristics of the rock surface. Without studying these characteristics, the BLM can not know whether or not energy development will damage or destroy world class cultural resources. Your plans do not discuss or even mention these important factors in your energy development plans. Further, without such research, no development should occur where rock art would be exposed to industrial dust.	practical experience. She has completed a preliminary report on the impact of dust generated by industrial traffic on dirt roads in Nine Mile Canyon. Her preliminary Dust Study report is available as Appendix G of the PFO West Tavaputs Plateau DEIS. Her work is considered pioneering research, prior to Connie's work in Nine Mile Canyon; there has been almost no scientific literature on the effects of dust on rock art specifically. Although the research remains in progress, it has been concluded that the degraded sections of road are generating large amounts of particulates as industrial traffic passes. The preliminary results show that the accumulation of dust on rock art panels located in close proximity to roads experiencing high levels of traffic does have a harmful effect on the physical integrity and visual aesthetic of the rock art. Ms. Silver has alerted BLM and other agencies to be aware of the potential for damage that magnesium chloride may present. Ms. Silver's Final Report will be available as an appendix in the Final EIS for the West Tavaputs Plateau to be released in Fall of 2008.	
Diane G. Orr	I	166	3	Another consideration, entirely neglected by the BLM DRMP, is the impact of wind-blown dust on the surface of rock art. In Nine Mile Canyon, industrial traffic has caused 30 foot plumes of dust which have covered panels on high cliff surfaces. Ms. Dean states that wind-blown dust and sand act like an abrasive on rock surfaces. The rock art literally can be sanded off the surface with cumulative and continual sand blasting. I saw no mention of this danger in your consideration of energy development in cultural resources areas.	See Response to Comment 166-2-CUL.	
Diane G. Orr	I	166	4	In Nine Mile Canyon, magnesium chloride has been used as a dust suppressant. This salt may introduce further risk to rock art. Magnesium chloride could cause fractures in the rock surface, again damaging or destroying rock art.	At this time, BLM has never approved the use of magnesium chloride in association with dust control on BLM system roads within the canyon bottoms. Approval of such a use is beyond the scope of this document. The	

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Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
					Nine Mile Canyon road is county maintained.	
Utah Rock Art Research Association	O	162	1	<p>We are concerned about the process used to identify cultural resource management associated with this supplement. See. (RMP 3-19)</p> <p>This problematic approach does not acknowledge that people and their archaeological footprint are entirely predictable. Nor does it consider the significance of sites, only probability of a site presence. Consequently sites of major significance are valued in the same manner as lesser sites. What proportion of the area under consideration has been inventoried? How many of the high archeological density areas determined by the BLM are afforded special archeological protection? This information is necessary to asses this supplement and has not been provided. As a result it is difficult for us to assess the quality of this supplemental.</p>	<p>Under Alternative E, oil and gas leasing would be open under standard lease terms or with timing and controlled surface-use conditions on approximately 528,405 acres within the high site probability areas and approximately 971,056 acres within the low site probability areas. Based on projections of the numbers of wells and the size of each well, approximately 18,000 acres would be subject to surface and subsurface disturbance over the short term. The majority of this disturbance (approximately 13,000 acres) would be within the Monument Butte–Red Wash RFD area, with approximately 4,000 acres in the East and West Tavaputs and Altamont-Bluebell areas and the remainder of disturbances within the Tabiona– Ashley Valley and Manila–Clay Basin areas.</p> <p>Alternative E reflects an approximately 11.7 % overall increase in oil, gas, and coal bed methane surface disturbance in the high cultural resource site probability zones relative to the Alternative D – No Action and an approximately 3.8 % increase in disturbance in low cultural resource site probability zones. Relative to the Alternative D – No Action, disturbance in high cultural resource site probability zones would increase by 2.7% in the Altamont-Bluebell and by 2.3% in the Monument Butte–Red Wash RFD areas. Descriptions of what constitutes low and high probability zones for cultural resources are provided in Sections 3.4.5 and 4.3 of the DEIS/DRMP. Alternative E is likely to result in encountering approximately 43 sites within high site probability zones and 19 sites in low site probability zones for approximately 62 sites total. Based on the numbers of acres potentially open to development for oil, gas, mineral materials, phosphate, and Gilsonite, Alternative E would result in a reduction in minerals development of approximately 1% in high cultural resource</p>	

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					<p>site probability zones relative to Alternative D – No Action Projected development in mineral materials and phosphate decreases between 5% and 48%, the biggest decrease is in the area of phosphate development. In general, any decrease in minerals development, especially within high cultural resource site probability zones, also decreases the potential for direct and indirect impacts on cultural resources because less ground disturbance—the biggest threat of damage to cultural resources—would occur. That is, under Alternative E, fewer cultural resource sites within the VPA would be available for potential direct and indirect impact because fewer acres of areas believed to contain large numbers of sites would be open to ground-disturbing activities associated with minerals development.</p>	
Utah Rock Art Research Association	O	162	2	<p>Section 106 (16 U.S.C. 470f) obligates the BLM to consider the effects of management actions on cultural resources listed or eligible for listing to the National Register of Historic Places. Section 110 of the NHPA requires the BLM to manage and maintain those resources in a way that gives "special consideration" to preserving archaeological and cultural values. Section 110 also requires the BLM to ensure that all historic properties under the jurisdiction or control of the agency are identified, evaluated, and nominated to the National Register of Historic Places. Id. 470h-2(a)(2)(A). There are only eight sites nominated to the NRHP in this region. Not all of these protect pre-historic resources. There are thousands of cultural resource sites in this region. How can the BLM claim to be honoring their legal responsibilities give this pitiful record of nomination to the NRHP?</p>	<p>The BLM integrates the protection of resource values such as cultural resources with its responsibilities for land use planning and resource management under FLPMA to ensure that the affects of any activity or undertaking is taken into account. In addition, National Programmatic Agreement, which regulates BLM's compliance with National Historic Preservation Act, serves as the procedural basis for BLM managers to meet their responsibilities under Section 106, and 110. Until 1980, Section 106 of the NHPA required agencies to consider the effects of their undertakings only on properties listed on the National Register of Historic Places. However in 1980, Section 106 was amended to require agencies to consider an undertaking's effects on properties included in or eligible for inclusion in the National Register. Since that time the BLM, through its land use planning process, outlines specific management prescriptions and mitigation measures to protect sites both listed and eligible for the National Register. Any potential surface disturbing activities based on future proposals will</p>	

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					require compliance with Section 106 and site-specific NEPA documentation.	
Utah Rock Art Research Association	O	162	3	<p>From the maps provided we are concerned that alternative E does not protect areas where know cultural resources to exist. We will provide specific comments below. We would be happy to meet with the BLM to provide specific site locations should you require more detailed information.</p> <p>We are concerned that development near rock art sites including campgrounds, roads, ORV trails, oil and gas exploration and development which include seismic testing, pipelines and access roads, and mineral extraction pose a threat to the integrity of rock art sites, It is clear to us that the greater the number of people that have access to a site, the higher the probability that the site will be vandalized. Recent research (Spangler, Jerry: Site Condition and Vandalism Assessments of Archeologica Sites, Lower and Middle Arch Canyon; Colorado Plateau Archaeological Alliance; 2006) confirms our experience. Further, we are concerned about the absence of a clearly stated intent to initiate NHPA SSection106 compliance prior to the designation of OHV routes and other development activities. Roads provide access to site areas; therefore their impact is greater than the perceived footbed of a narrow road corridor. The location of roads OHV routes must give consideration both to the cultural resources directly in their path and the resources they provide access to.</p> <p>Roads, in proximity to rock art sites, also subject sites to impact from dust and vehicular emissions. There is good evidence in Nine Mile Canyon of dust coating sites and limiting the ability of the site to be seen. We are</p>	<p>The permitting process for oil and gas operations is an implementation decision and involves site-specific analysis of proposals on a case-by-case basis to identify specific conditions of approval to protect resources. The BLM cannot require an oil and gas operator to conduct clearances on non-related actions.</p> <p>SEE NUMBER 2.</p>	

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				<p>concerned that dust and dust suppression chemicals (magnesium chloride) may damage the surface of rock art sites. "Dust is a well known problem. The dust sticks to the surface of the rock art and become incorporated in the surface of the rock and cannot be removed." (Bob Mark, Rupestrian CyberServices) Save Outdoor Sculpture did a national assessment of statuary. The local project, coordinated through The Utah Museum of Fine Art, found that those monuments located in areas of high vehicular traffic were experiencing degradation from the corrosive effects of vehicular emissions. This parallels the experience of many European countries who are attempting to preserve their cultural resources. Diesel is of particular concern and would be the most prevalent form of exhaust from large oil and gas vehicles. We feel that it is important that the BLM study and resolve this issue prior the development and use of roads that may experience high traffic from oil and gas or other vehicles near rock art sites.</p>		
Utah Rock Art Research Association	O	162	4	<p>We are concerned that ACEC designation will inadvertently or intentionally publicize cultural resource locations not generally known. The smaller the ACEC borders, the higher the degree of concern. The BLM has a legal obligation under ARPA to protect site locations.</p>	<p>Under FLPMA's multiple-use mandate, the BLM manages many different resource values and uses on public lands. Through land use planning BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple-use concept, the BLM does not necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. The BLM strives to ensure that the goals and objectives of each program (representing resource values and uses) are consistent and compatible for a particular land area. Inconsistent goals and objectives can lead to resource conflicts, failure to achieve the desired outcomes of a land use plan, and litigation. Not all uses and values can be provided for on every acre. That is why land use</p>	

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					<p>plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that all resource values and uses are considered to determine what mix of values and uses is responsive to the issues identified for resolution in the land use plan. Layering of program decisions is not optional for BLM, but is required by the FLPMA and National BLM planning and program specific regulations.</p>	
Utah Rock Art Research Association	O	162	5	<p>This area which borders Dinosaur National Monument is exceptionally rich in culturally important rock art, archeology, and paleontology. The sites in this area contain images believed to date from Archaic to the Fremont period and through the occupancy of the Ute people, a period spanning 6000 BCE to the late 1800's. Cub Creek represents the northern boundary of images associated with the world-class Barrier Canyon Style. Some of the Fremont images in the panels are unique to this area of the Uintah Basin; others show that there was ingress of Plains Indian People, or cultural influence from the Plains Indians. Thus, the rock art is important both locally and nationally because it has the potential to provide important information on prehistoric movement of cultures and ideologies in North America. These images also have the potential to provide important information about cultural changes over time.</p> <p>Images in this area demonstrate characteristics similar to those in Dry Fork, while having characteristics unique to the area. Each contains a unique assemblage of images that provides scientists and scholars an opportunity to determine the meaning and purpose of the images in all of the panel. Therefore, each panel is significant because of the information that it can contribute to this understanding of how cultural influences are</p>	<p>Federal Laws protecting Cultural Resources are followed by the BLM in monitoring, completing Class III inventories, and nominating sites to the National Historic Register. The RMP is a planning document and it does not preclude the nomination of Cultural Sites to the Register. Nomination is a process of determining the eligibility of a site. That process is dictated by Federal Laws which protect Cultural Resources. The BLM will comply with its Section 106 responsibilities as directed by the NHPA regulations and BLM IM-2007-030 (Clarification of Cultural Resource Considerations for Off-Highway Vehicle Designation and Travel Management). As described in BLM IM-2007-030, cultural resource inventory requirements, priorities and strategies will vary depending on the effect and nature of the proposed OHV activity and the expected density and nature of historic properties based on existing inventory information.</p> <p>A. Class III inventory is not required prior to designations that (1) allow continued use of an existing route; (2) impose new limitations on an existing route; (3) close an open area or travel route; (4) keep a closed area closed; or (5) keep an open area open.</p> <p>B. Where there is a reasonable expectation that a proposed designation will shift, concentrate or expand travel into areas where historic properties are likely to be adversely affected, Class III inventory and compliance with</p>	

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				<p>disseminated but also evolve in a local context. These sites need to be nominated to the NRHP.</p> <p>Rock art panels on the cliff faces on BLM land on the south side of Cub Creek appear to be reasonably free of vandalism. However, the extension of ATV trails and ORV roads on the plateau above the cliffs makes access to the high cliffs and rock art easy. It is our observation that in the past ten years off-road vehicles have created new spur trails from unauthorized and undesignated older trails. Currently these new spur trails literally cross over Fremont habitation sites on the plateau.</p> <p>We are particularly concerned about two sites. First, a magnificent set of panels which occur in a narrow rock passageway leading from the plateau and on the adjacent cliffs above Cub Creek. There are large images in the passageway and large panels on the nearby cliff. This area which some call a "birthing or creation" site displays unique Fremont figures with gender characteristics. The female figure facing Cub Creek is one of the best in the state. The entire site is significantly different from Fremont figures in Dinosaur Monument, Nine Mile Canyon, Range Creek and Dry Canyon. Recently ATV drivers created a spur very close to this important site.</p> <p>Second, a long set of dinosaur footprints are located on the underside of a cliff in a draw on the same plateau. The location of these tracks should not be publicly available and vehicle access routes should be closed</p>	<p>Section 106, focused on areas where adverse effects are likely to occur, is required prior to designation.</p> <p>C. Proposed designations of new routes or new areas as open to OHV use will require Class III inventory of the Area of Potential Effect and compliance with Section 106 prior to designation. Class III inventory of the APE and compliance with Section 106 will also be required prior to identifying new locations proposed as staging areas or similar areas of concentrated OHV use.</p> <p>D. Class II inventory, or development and field testing of a cultural resources probability model, followed by Class III inventory in high potential areas and for specific projects, may be appropriate for larger planning areas for which limited information is currently available</p>	
Utah Rock Art Research Association	O	162	6	<p>Chew Ranch Area</p> <p>The Chew Ranch area south of the Green River contains unique rock art. It is mentioned in Castleton as "The</p>	<p>The PRMP/FEIS acknowledges that the illegal activities, such as vandalism and looting, may be impacted by changes in access, as is specifically identified. In particular the FEIS notes that increased access to cultural sites</p>	

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				<p>Canyon." (Castleton; Petroglyphs and Pictographs of Utah, Vol. 1; page 54-44). This 100 foot long densely pecked panel, has rare pecked Barrier Canyon figures and Fremont figures in classic Dry fork style and can be tied into glyphs at Swelter Shelter which has been excavated and dated. This panel is significant because of the information that it can contribute to the understanding of how cultural influence are disseminated. This area has a long history of visitation and vandalism, which has continued into the present. These panels deserve special consideration because of their well known location and fragile nature at ground level. The unnamed canyon to the west has three life size Barrier Canyon Style figures.</p>	<p>could increase contact by visitors who could intentionally damage sites by collecting surface artifacts, vandalizing, illegally digging, or otherwise excavating the sites. The PRMP/FEIS does analyze under the various alternatives the illegal activities in association with the level of access as restricted by the alternatives and does not imply that illegal activities are restricted solely to the areas adjacent to the OHV routes. During the development of the RMP, cultural resource conflicts were considered during the route identification process. Allocation of law enforcement presence for closed routes is an Administrative Action by the BLM and does not require a specific planning decision to implement.</p>	
Utah Rock Art Research Association	O	162	7	<p>Cliff Creek</p> <p>The area includes several outstanding panels. The cliffs proceeding north from the highway include rock art for approximately 1.5 miles (Castleton; Petroglyphs and Pictographs of Utah, Vol. 1; page 39). The many rock art panels seem to span hundreds of years of Fremont and Numic history and seem to demonstrate continuous use since archaic times. The Cockleburr Wash panels are impressive and warrant National Historic Register nomination. The images include a very large anthropomorphic figure with long thin horns and snake-like arms and it stands next to a carved sheep with an interior negative-image of a smaller sheep. This image appears to be a portrayal of pregnancy. There is also a beautiful shield design with two lizard figures. The craftsmanship on many of the panels is outstanding. The outcroppings east of the Cockleburr Wash site also contain important panels. Lithic scatters are ubiquitous. Glyphs in this area indicate stylistic ties with cultures in the San Rafael Swell, Moab, and Wyoming. There are</p>	<p>The BLM integrates the protection of resource values such as cultural resources with its responsibilities for land use planning and resource management under FLPMA to ensure that the affects of any activity or undertaking is taken into account. In addition, National Programmatic Agreement, which regulates BLM's compliance with National Historic Preservation Act, serves as the procedural basis for BLM managers to meet their responsibilities under Section 106, and 110.</p> <p>Until 1980, Section 106 of the NHPA required agencies to consider the effects of their undertakings only on properties listed on the National Register of Historic Places. However in 1980, Section 106 was amended to require agencies to consider an undertaking's effects on properties included in or eligible for inclusion in the National Register. Since that time the BLM, through its land use planning process, outlines specific management prescriptions and mitigation measures to protect sites both listed and eligible for the National Register. Any potential surface disturbing activities based on future proposals will</p>	

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				<p>additional sites in the area that we would be happy to discuss with the BLM.</p> <p>Currently access to this area is limited and it receives little visitation. Erosion of Cocklebur Wash makes direct access to the panels almost impossible. Consequently, the panels are better preserved than most. We are concerned that oil and gas development on the plateaus above the cliffs or in the valley adjacent to the deep wash would both damage and increase accessibility to these important sites.</p>	<p>require compliance with Section 106 and site-specific NEPA documentation.</p> <p>Also, see Response to Comment 162-6-CUL.</p>	
Utah Rock Art Research Association	O	162	8	<p>Upper, Middle, and Lower Brush Creek</p> <p>A number of significant archaeological and rock art sites are scattered all along Brush Creek and its main forks as it meanders from the Uintah Mountains to the Green River. Fremont rock art panels, ruins and apparently two unstudied prehistoric roads exist in this drainage. These sites are important because they contain imagery associate with the Anasazi of southern Utah and northern Arizona. They contain information important in understanding prehistoric population movement and the interaction between the Fremont and Anasazi Cultures, as well as the later Numic people and Plains Cultures, and are significant in North American prehistory.</p>	See Response to Comment 162-7-CUL.	
Utah Rock Art Research Association	O	162	9	<p>Little Dry Fork Mountain and Surrounding Areas</p> <p>Little Dry Fork Mountain is dense with archeology and rock art of world-class caliber located on public and private land. Protection of the canyon bottom, canyon walls, and associated uplands is essential. The rock art panels in this area meet the high standards necessary for a National Historic Register Nomination. McConkie Ranch is already so designated and the rock art and archeology</p>	See Response to Comment 162-7-CUL.	

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				<p>continues beyond their site.</p> <p>Dry Fork has been a major cultural center for hundreds of years and a dense area of occupation. A local rancher once told us: "every time I dig a fence post hole, I am uncovering a cultural site." Dry Fork may be the last significant Fremont habitation zone in Utah prior to Fremont abandonment of the state. As such, it may hold clues as to the disappearance of the Fremont.</p>		
Utah Rock Art Research Association	O	162	10	<p>Nine Mile Canyon and Surrounding Region (Including North Frank's Canyon to the Green River)</p> <p>Nine Mile Canyon contains evidence of human activity over millennia. The density of archeological artifacts rivals any location in the United States. These rich cultural resources provide a significant opportunity for researchers to understand the poorly known Fremont culture and its development over time.</p> <p>The rims and adjacent plateaus contain many habitation, and structural sites that are not fully defined. They may be defensive sites demonstrating important interaction between cultural groups. There are so many sites in this area that it is difficult to discuss individual sites without writing an entire book. We provide only the brief following comments: Rock art sites at the confluence of Frank's Canyon and Minnie Maude Creek are unique. One panel shows wolves in animated positions watching bighorn sheep.</p> <p>There are many panels, some very ancient archaic panels along Minnie Maude Creek in the BLM areas between the last private ranch and the Green River. We have documented the presence of pit houses on the plateaus</p>	No response required.	

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				<p>above the river in this area. This entire area needs careful inventory work. It is relatively undisturbed and should be protected for scientific research into the Fremont culture. The entire area has large mysterious Fremont cairns on the buttes above the river. Further, there are many white pictographs inside of the porous rocks on the slopes. These strange, abstract patterns may have had an important ceremonial purpose. We also recommend C-SMA protection for Jack and Rock Canyons. These Nine Mile tributaries contain important rock art and archeological sites. We have noted recently excavations at pictograph sites in Jack Canyon.</p> <p>We are concerned about the future of cultural resources in the area of Argyle Creek, particularly the rock art in the lower file miles of the canyon. Recent news stories indicate the possibility of tar sand/oil shale development in the region. These activities will be the source of an EIS. However, given the amount of energy development that has been permitted by the BLM on the Tavaputs without an EIS we want to go on record now that we oppose mineral development in this important area.</p> <p>Since it is unlikely that oil and gas development will abate on the Tavaputs Plateau in the near future we believe that the road in Nine Mile Canyon should be paved or hard surfaced and increased management presence commensurate with the increased traffic. We are extremely disappointed that the BLM has allowed the use of magnesium chloride on roads in the canyon without researching the impact of this corrosive on rock art.</p>		
Utah Rock Art Research Association	O	162	11	<p>Bitter Creek</p> <p>Rock art in this region is described by Castleton</p>	<p>BLM manages all Cultural Resources according to Federal Laws that provide the process for protecting Sites. Vandalism is a criminal act and anyone who vandalizes or</p>	

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				<p>(Castleton; Petroglyphs and Pictographs of Utah, Vol. 1; page 69-72). Additional sites are located near Rat Hole Canyon and should be included in the C-SMA. Spring Canyon should also be protected.</p> <p>The recent vandalism that destroyed a pristine Barrier Canyon Style panel in this area is a good example of why the BLM needs to provide management plans and protection for easily accessed archeological sites.</p>	removes Cultural Resources from Federal Lands will be prosecuted and fined according to Federal Law. Federal Law is inclusive in the RMP.	
The Wilderness Society	O	174	77	<p>In addition to recognizing the objective benefits of protecting these sites, the BLM also has an obligation to seek identification and protection of cultural resources: Section 106 of the NHPA imposes obligations on the BLM to prioritize identification and protection of cultural resources; Section 110 obligates the BLM to proactively identify and evaluate sites that may be eligible for listing on the national Register 16 USC § 470f, 470h. These factors should lend additional weight to the discussion of improvements in management for cultural resources in the Supplement. The Supplement's concerns with the loss of new data from limiting development projects are not supportable and should be discounted based on the fact that NHPA requires the BLM to proactively identify cultural resource sites (i.e. it is not told to inventory for sites only when development may threaten them.</p>	See Response to Comment 162-7-CUL.	
The Wilderness Society	O	174	78	<p>The Supplement severely underestimates the important protections to cultural resources that arise from protecting lands with wilderness characteristics and, as a result, also fails to fulfill the BLM's obligation under the NHPA, as well as NEPA.</p>	Inventory of a statistically valid sample of the 1.7 million acres of BLM lands within for the purpose of preparing the RMP is not feasible. For this reason, the BLM has used the best available data at the time this document was prepared to identify general management measures related to cultural resources. The BLM has included stipulations for the identification of cultural resource sites and the avoidance, minimization, or mitigation of impacts to those resources for land use activities permitted under the RMP.	

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					Federal law concerning cultural preservation mandates that in all applicable situations, e.g. ground disturbing actions, their effects are processed under existing laws, regulations and standards. The inventory is updated weekly and this information is provided to the manager for decision-making.	
The Wilderness Society	O	174	79	<p>The designation of routes in the Supplement and the DRMP/EIS fails to comply with applicable BLM guidance. IM No. 2007-030, which was issued and become effective on December 15, 2006, addresses “Cultural Resource Considerations for Off-Highway Vehicle (OHV) Designation and Travel Management.” The IM notes that: “Selection of specific road and trail networks and imposition of other use limitation should avoid impacts on historic properties wherever possible” and requires that “existing cultural information must be considered.” Nonetheless, the DRMP and the Supplement decline to make decisions to protect these areas. As mandated in IM 2007-030: “Evaluation of routes or areas to be designated as closed to protect cultural resources may be based on existing inventory information and should be postponed until additional information is acquired.” IM 2007-030 confirms that a Class III inventory of cultural resources is required prior to route designation in travel planning. All of the alternatives are likely to lead to increased, concentrated access in areas with cultural resources and cause adverse impacts, so a Class III inventory of these routes should be conducted prior to analysis. Compliance with IM 2007-030 could have been incorporated into this Supplement previous and the agency should do so now.</p>	<p>The BLM will comply with its Section 106 responsibilities as directed by the NHPA regulations and BLM IM-2007-030 (Clarification of Cultural Resource Considerations for Off-Highway Vehicle Designation and Travel Management). As described in BLM IM-2007-030, cultural resource inventory requirements, priorities and strategies will vary depending on the effect and nature of the proposed OHV activity and the expected density and nature of historic properties based on existing inventory information.</p> <p>A. Class III inventory is not required prior to designations that (1) allow continued use of an existing route; (2) impose new limitations on an existing route; (3) close an open area or travel route; (4) keep a closed area closed; or (5) keep an open area open.</p> <p>B. Where there is a reasonable expectation that a proposed designation will shift, concentrate or expand travel into areas where historic properties are likely to be adversely affected, Class III inventory and compliance with Section 106, focused on areas where adverse effects are likely to occur, is required prior to designation.</p> <p>C. Proposed designations of new routes or new areas as open to OHV use will require Class III inventory of the Area of Potential Effect and compliance with Section 106 prior to designation. Class III inventory of the APE and compliance with Section 106 will also be required prior to identifying new locations proposed as staging areas or</p>	

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					similar areas of concentrated OHV use. D. Class II inventory, or development and field testing of a cultural resources probability model, followed by Class III inventory in high potential areas and for specific projects, may be appropriate for larger planning areas for which limited information is currently available.	
Coalition to Preserve Rock Art	O	177	2	Section 106 (16 U.S.C. 470f) obligates the BLM to consider the effects of management actions on cultural resources listed or eligible for listing to the National Register of Historic Places. Section 110 of the NHPA requires the BLM to manage and maintain those resources in a way that gives "special consideration" to preserving archaeological and cultural values. Section 110 also requires the BLM to ensure that all historic properties under the jurisdiction or control of the agency are identified, evaluated, and nominated to the National Register of Historic Places. Id. 470h-2(a)(2)(A). There are only eight sites nominated to the NRHP in this region. Not all of these protect pre-historic resources. There are thousands of cultural resource sites in this region. How can BLM claim to be honoring their legal responsibilities given this pitiful record of nomination to the NRHP?	Standard lease terms and special lease stipulations call for the inventory and either avoidance of or mitigation of impacts to National Register-eligible or identified sacred/traditional resources. BLM further encourages the location of multiple wells on single drilling pads and the consolidation of access roads in order to reduce surface disturbances. Additionally, permits issued by the BLM authorize surface disturbance and travel only in those areas where cultural resources assessment has taken place and appropriate avoidance, minimization, or mitigation measures have been implemented. As part of its Section 110 responsibilities and in incorporating cultural resources into the planning process, the BLM has identified and proposed a number of ACECs within which cultural resource values are a key component.	
Coalition to Preserve Rock Art	O	177	3	We are concerned that over a million acres would be made available for oil and gas leasing without comprehensive cultural resource inventories. From the maps provided, we are concerned that Alternative E does not protect areas where we know cultural resources to exist. We will provide specific comments below. We would be happy to meet with the BLM to provide specific site locations should you require more detailed information.	Whenever the BLM State Office initiates a lease sale all parcels on the list are reviewed through a Class I survey by a BLM archaeologist. If site density is high and/or sacred sites are present the parcel is deferred. The BLM archaeologist also conducts formal consultation with the SHPO and all Tribes with potential interest in the parcels. Once the parcels are leased no ground disturbing activities are permitted without a Class III inventory.	
Coalition to Preserve Rock Art	O	177	5	Little Dry Fork Mountain and Surrounding Areas.  This canyon is dense with archeology and rock art of	See Response to Comment 162-7-CUL.  Protection of cultural resources on private land is beyond	

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				world-class caliber located on both public and private land. Protection of the canyon bottom, canyon walls, and associated uplands is essential. The rock art panels in this area meet the high standards necessary for a National Historic Register Nomination. McConkie Ranch is already so designated and the rock art and archeology continue beyond their site.	the scope of this document.	
Coalition to Preserve Rock Art	O	177	6	<p>Nine Mile Canyon and Surrounding Region.</p> <p>It is difficult to determine from the provided map which areas are protected from surface disturbing activities. We are very concerned by the unnecessary damage to rock art from dust and corrosive chemicals; the conversion of a world-class ancient thoroughfare to a modern industrial thoroughfare. Further, we are very concerned that energy development not be allowed on the rims above the canyons. Nine Mile Canyon and all of the tributaries are one of Utah's greatest archeological treasures. We are deeply concerned that field inventories be the guide to land use, not the economics of the energy industry.</p> <p>We are concerned about the future of cultural resources in the area of Argyle Creek. Recent news stories indicate the possibility of coal-shale development in the region. These activities will be the source of some future EIS. However, given the amount of energy development that has been permitted by the BLM on the Tavaputs without an EIS we want to go on record now that we oppose mineral development in this important area.</p> <p>We are extremely disappointed that the BLM has allowed the use of magnesium chloride on roads in the canyon without researching the impact of this corrosive on rock art.</p>	<p>See Responses to Comments 166-2-CUL, 166-3-CUL, 166-4-CUL.</p> <p>The term "coal-shale development" is not understood. No reference was given for the recent news stories.</p>	

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Coalition to Preserve Rock Art	O	177	7	<p>Bitter Creek--Rock art in this region is described by Castleton (Castleton; Petroglyphs and Pictographs of Utah, Vol. 1; page 69-72). Additional sites are located new Rat Hole Canyon and should be included in the C-SMA. Spring Canyon should also be protected.</p> <p>The recent vandalism that destroyed a pristine Barrier Canyon Style panel in this area is a good example of why the BLM needs to provide management plans and protection for easily accessed archeological sites.</p>	<p>Mitigation of impacts to important cultural resources and sacred sites would be developed at the time of site-specific proposals during the NEPA analysis process. Vandalism is a criminal act under Federal Law. People who commit vandalism will be arrested, sent to jail and fined.</p>	
	O	180	6	<p>We are greatly concerned about the management proposals in all Alternatives for Cub Creek drainage south of Dinosaur National Monument. This area includes the Cub Creek, the South Fork of Cub Creek, Bourdette Draw, and Cliff Creek. It encompasses the area from Cliff Ridge and the Blue Mountain slopes on the east to the Green River on the west. This area contains exceptionally high cultural values. There are significantly important rock art and archeological sites of both regional and National value. The sites in this area contain numerous images that date from Fremont period through the occupancy of the UTE people, which is about AD 500 to the late 1800's.</p>	<p>See Response to Comment 162-7-CUL.</p> <p>No information is provided by the commenter about their concerns with management proposals in the alternatives.</p>	
	O	180	7	<p>This canyon is dense with archeological resources and rock art of local and national significance located on both public and private land. We are not aware of the current level of protection afforded the public lands in this region.</p>	<p>See Response to Comment 162-7-CUL.</p>	
	O	180	8	<p>It is difficult to determine from the provided map precisely the boundaries of the areas protected from surface disturbing activities in Nine Mile Canyon.</p>	<p>See Responses to Comments 166-2-CUL, 166-3-CUL, 166-4-CUL.</p>	
Howard County Bird Club	O	182	3	<p>We support Alternative E as the most preservation-oriented alternative with certain provisions. We are concerned that over a million acres would be made available for oil and gas leasing without comprehensive</p>	<p>See Responses to Comments 162-7-CUL, 174-79-CUL.</p>	

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				cultural resource inventories.		
BCS Project	O	185	1	The BLM has overall failed to provide an alternative, which fulfills the BLM's duty to protect cultural resources in the Vernal Management Area as outlined by the National Historic Preservation Act.	<p>See Response to Comment 162-7-CUL.</p> <p>The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public. Public participation was essential in this process and full consideration was given to all potential alternatives identified.</p> <p>The BLM, in developing the PRMP/FEIS, can chose management actions from within the range of the alternatives presented in the DRMP/DEIS and create a management plan that is effective in addressing the current conditions in the planning area based on FLPMA's multiple-use mandate.</p>	
BCS Project	O	185	2	BLM draft management plans have neglected to address this serious issue in its past plans and it has neglected to do enough to prevent the degradation now occurring in places like Nine Mile Canyon. This head in the sand approach, in the past and, again, now, woefully falls short of your obligations under Section 106 (16 U.S.C. 470f) and Section 110 to plan and manage cultural resources with special consideration to preserving archaeological and cultural values.	See Response to Comment 162-7-CUL.	
Utah Rock Art Research Association	O	186	1	This problematic approach does not acknowledge that people and their archaeological footprint are entirely predictable. Nor does it consider the significance of sites,	Under Alternative E, oil and gas leasing would be open under standard lease terms or with timing and controlled surface-use conditions on approximately 528,405 acres	

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		<p>only probability of a site presence. Consequently sites of major significance are valued in the same manner as lesser sites. What proportion of the area under consideration has been inventoried? How many of the known rock art sites are given special protection? How many of the high archaeological density areas determined by the BLM are afforded special archaeological protection? This information is necessary to assess this supplement and has not been provided. As a result, it is difficult for us to assess the quality of this supplemental.</p>	<p>within the high site probability areas and approximately 971,056 acres within the low site probability areas. Based on projections of the numbers of wells and the size of each well, approximately 18,000 acres would be subject to surface and subsurface disturbance over the short term. The majority of this disturbance (approximately 13,000 acres) would be within the Monument Butte–Red Wash RFD area, with approximately 4,000 acres in the East and West Tavaputs and Altamont-Bluebell areas and the remainder of disturbances within the Tabiona– Ashley Valley and Manila–Clay Basin areas.</p> <p>Alternative E reflects an approximately 11.7 % overall increase in oil, gas, and coal bed methane surface disturbance in the high cultural resource site probability zones relative to the Alternative D – No Action and an approximately 3.8 % increase in disturbance in low cultural resource site probability zones. Relative to the Alternative D – No Action, disturbance in high cultural resource site probability zones would increase by 2.7% in the Altamont-Bluebell and by 2.3% in the Monument Butte–Red Wash RFD areas. Descriptions of what constitutes low and high probability zones for cultural resources are provided in Sections 3.4.5 and 4.3 of the DEIS/DRMP. Alternative E is likely to result in encountering approximately 43 sites within high site probability zones and 19 sites in low site probability zones for approximately 62 sites total. Based on the numbers of acres potentially open to development for oil, gas, mineral materials, phosphate, and Gilsonite, Alternative E would result in a reduction in minerals development of approximately 1% in high cultural resource site probability zones relative to Alternative D – No Action Projected development in mineral materials and phosphate decreases between 5% and 48%, the biggest decrease is</p>	

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					in the area of phosphate development. In general, any decrease in minerals development, especially within high cultural resource site probability zones, also decreases the potential for direct and indirect impacts on cultural resources because less ground disturbance—the biggest threat of damage to cultural resources—would occur. That is, under Alternative E, fewer cultural resource sites within the VPA would be available for potential direct and indirect impact because fewer acres of areas believed to contain large numbers of sites would be open to ground-disturbing activities associated with minerals development.	
Utah Rock Art Research Association	O	186	2	There are only eight sites nominated to the NRHP in this region. Not all of these protect prehistoric resources. There are thousands of cultural resource sites in this region. How can the BLM claim to be honoring their legal responsibilities given this pitiful record of nomination to the NRHP?	See Response to Comment 162-7-CUL.	
Utah Rock Art Research Association	O	186	3	We are concerned that over a million acres would be made available for oil and gas leasing without comprehensive cultural resource inventories.	See Response to Comment 162-7-CUL.	
Utah Rock Art Research Association	O	186	5	We are concerned that dust and dust suppression chemicals (magnesium chloride) may damage the surface of rock art sites. "Dust is a well known problem. The dust sticks to the surface of rock art and becomes incorporated in the surface of the rock and cannot be removed." (Bob Mark, Rupestrian CyberServices) Save Outdoor Sculpture did a national assessment of statuary. The local project, coordinated through The Utah Museum of Fine Art, found that those monuments located in areas of high vehicular traffic were experiencing degradation from the corrosive effects of vehicular emissions.	See Response to Comment 166-4-CUL.	
Utah Rock Art Research Association	O	186	6	South Fork Cub Creek and the Plateau Above We propose that this area be designated as a C-SMA with additional paleontological protection and closure of	See Responses to Comments 162-7-CUL, 174-79-CUL.	

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				all spur roads from the Bourdette Draw region.		
Utah Rock Art Research Association	O	186	7	We are particularly concerned about two sites. First, a magnificent set of panels which occur in a narrow rock passageway leading from the plateau and on the adjacent cliffs above Cub Creek. There are large images in the passageway and large panels on the nearby cliff. This area which some call a "birthing or creation" site displays unique Fremont figures with gender characteristics. The female figure facing Cub Creek is one of the best in the state. The entire site is significantly different from Fremont figures in Dinosaur Monument, Nine Mile Canyon, Range Creek, and Dry Canyon. Recently ATV drivers created a spur very close to this important site.	See Responses to Comments 162-7-CUL, 174-79-CUL.	
Utah Rock Art Research Association	O	186	9	<p>The Chew Ranch area south of the Green River contains unique rock art. It is mentioned in Castleton as "The Canyon." (Caselton; Petroglyphs and Pictographs of Utah, Vol. 1; page 54-55). This 100 foot long densely pecked panel, has rare pecked Barrier Canyon figures and Fremont figures in classic Dry Fork style and can be tied into glyphs at Swelter Shelter which has been excavated and dated. This panel is significant because of the information that it can contribute to the understanding of how cultural influences are disseminated. This area has a long history of visitation and vandalism, which has continued into the present. These panels deserve special consideration because of their well known location and fragile nature at ground level. The unnamed canyon to the west has three life size Barrier Canyon Style figures.</p> <p>The road leading to these sites from the highway should be closed and shooting prohibited.</p>	See Response to Comment 162-6-CUL.	
Utah Rock Art Research Association	O	186	10	<p>Cliff Creek</p> <p>We propose that this area be designated as a C-SMA.</p>	The BLM's follows an ongoing policy of cultural resource stewardship and adherence to the mandates of federal legislation such as, but not limited to, the National Historic	

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					<p>Preservation Act. While Section 106 of the Act requires the BLM to consider the avoidance, minimization, or mitigation of impacts to National Register-eligible resources, Section 110 requires the BLM to pro-actively manage for preservation such resources, as known to exist, under their jurisdiction. This management requires addressing threats/impacts to the resources that compromise their eligibility for the National Register. These threats may come from human-caused disturbances or natural processes. The feasibility and cost effectiveness of ameliorating natural deterioration would be assessed on a case-by-case basis and in consideration of whether or not the deterioration is altering the characteristics of the resource that render it eligible for the National Register.</p>	
Utah Rock Art Research Association	O	186	12	<p>Our experience in the area between Bulls Canyon and the Green River demonstrates that it has wilderness characteristics. The area is wild, rugged, and has no roads. We believe that our proposed C-SMA designation in this area should be enhanced with a wilderness designation.</p>	<p>“Layering” is planning tool. Under FLPMA’s multiple-use mandate, the BLM manages many different resource values and uses on public lands. Through land use planning BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple-use concept, the BLM does not necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands. The process of applying many individual program goals, objectives, and actions to the same area of public lands may be perceived as “layering”. The BLM strives to ensure that the goals and objectives of each program (representing resource values and uses) are consistent and compatible for a particular land area. Inconsistent goals and objectives can lead to resource conflicts, failure to achieve the desired outcomes of a land use plan, and litigation. Whether or not a particular form of management is restrictive depends upon a personal interest or desire to see that public lands are managed in a particular manner. Not all uses and</p>	

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			<p>values can be provided for on every acre. That is why land use plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that all resource values and uses are considered to determine what mix of values and uses is responsive to the issues identified for resolution in the land use plan. Layering of program decisions is not optional for BLM, but is required by the FLPMA and National BLM planning and program specific regulations.</p> <p>The FLPMA directs BLM to manage public lands for multiple use and sustained yield (Section 102(a)(7)). As a multiple-use agency, the BLM is required to implement laws, regulations and policies for many different and often competing land uses and to resolve conflicts and prescribe land uses through its land use plans. The BLM's Land Use Planning Handbook requires that specific decisions be made for each resource and use (See, Appendix C, Land Use Planning Handbook "H-1601-1"). Specific decisions must be included in each of the alternatives analyzed during development of the land use plan. As each alternative is formulated, each program decision is overlaid with other program decisions and inconsistent decisions are identified and modified so that ultimately a compatible mix of uses and management prescriptions result.</p> <p>For example, the BLM has separate policies and guidelines, as well as criteria, for establishing ACECs and when the WSAs were established. These differing criteria make it possible that the same lands will qualify as both an ACEC and a WSA but for different reasons. The BLM is required to consider these different policies.</p> <p>The values protected by WSA management prescriptions</p>	

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					do not necessarily protect those values found relevant and important in ACEC evaluation, and vice versa. The relevant and important values of ACECs within or adjacent to WSAs were noted in the ACEC Evaluation (Appendix G). The ACECs are evaluated and ranked based on the presence or absence of the stated relevant and important values. None of these values includes wilderness characteristics. Additionally, the management prescriptions for the ACECs is limited in scope to protect the relevant and important values, and the BLM maintains that the size of the ACEC areas is appropriate for protection of the relevant and important values identified.	
Utah Rock Art Research Association	O	186	13	There are many panels, some very ancient archaic panels along Minnie Maude Creek in the BLM areas between the last private ranch and the Green River. We have documented the presence of pit houses on the plateaus above the river in this area. This entire area needs careful inventory work. It is relatively undisturbed and should be protected for scientific research into the Fremont culture.	See Response to Comment 162-7-CUL.	
Utah Rock Art Research Association	O	186	14	These strange, abstract patterns may have had an important ceremonial purpose. We recommend C-SMA protection for Jack and Rock Canyons. These Nine Mile tributaries contain important rock art and archaeological sites. We have noted recently excavations at pictograph sites in Jack Canyon.	See Response to Comment 162-6-CUL.	
Utah Rock Art Research Association	O	186	15	We are extremely dissatisfied that the BLM has allowed the use of magnesium chloride on roads in the canyon without researching the impact of this corrosive on rock art.	The BLM does not allow use of magnesium chloride on BLM roads.	
Utah Rock Art Research Association	O	186	17	This problematic approach does not acknowledge that people and their archaeological footprint are entirely predictable. Nor does it consider the significance of sites, only probability of a site presence. Consequently sites of major significance are valued in the same manner as	See Response to Comment 186-1-CUL.	

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				<p>lesser sites. What proportion of the area under consideration has been inventoried? How many of the known rock art sites are given special protection? How many of the high archeological density areas determined by the BLM are afforded special archeological protection? This information is necessary to assess this supplement and has not been provided. As a result, it is difficult for us to assess the quality of this supplemental.</p>		
Utah Rock Art Research Association	O	186	21	<p>This area has a long history of visitation and vandalism, which has continued into the present. These panels deserve special consideration because of their well known location and fragile nature at ground level. The unnamed canyon to the east has three life size Barrier canyon Style figures.</p>	See Response to Comment 162-6-CUL.	
Utah Rock Art Research Association	O	186	23	<p>Cliff Creek</p> <p>We propose that this area be designated as a C-SMA.</p>	<p>The area has been analyzed as part of a potential ACEC. Refer to Appendix G for more information.</p> <p>Activity Plans are defined under the BLM Land Use Planning Handbook H-1601-1 as:</p> <p>“A type of implementation plan; an activity plan usually describes multiple projects and applies best management practices to meet land use plan objectives. Examples of activity plans include interdisciplinary management plans, habitat management plans, recreation area management plans, and allotment management plans.”</p> <p>This would include ACECs, SRMAs sensitive species habitat, etc.</p> <p>Furthermore, H-1601-1 further states:</p> <p>“Upon approval of the land use plan, subsequent implementation decisions are put into effect by developing</p>	

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					implementation (activity-level or project-specific) plans. An activity-level plan typically describes multiple projects in detail that will lead to on-the-ground action. These plans traditionally focused on single resource programs (habitat management plans, allotment management plans, recreation management plans, etc.). However, activity-level plans are increasingly interdisciplinary and are focused on multiple resource program areas to reflect the shift to a more watershed-based or landscape-based approach to management. These types of plans are sometimes referred to as “integrated or interdisciplinary plans,” “coordinated resource management plans,” “landscape management plans,” or “ecosystem management plans.” A project-specific plan is typically prepared for an individual project or several related projects.”	
Utah Archeological Research Institute, Inc.	O	191	8	We are greatly concerned about the management proposals in all Alternatives for Cub Creek drainage south of Dinosaur National Monument. This area contains exceptionally high cultural values. There are significantly important rock art and archeological sites of both regional and national value. The rock art and the archaeology have the potential to provide important information on prehistoric movement of cultures and ideologies in western North America. These images also have the potential to provide important information about cultural changes over time. Many sites in this area have not been recorded.	See Response to Comment 162-7-CUL.  No information is provided by the commenter about their concerns with management proposals in the alternatives.	
Utah Archeological Research Institute, Inc.	O	191	9	Dry Fork Canyon and surrounding area. This canyon is dense with archeological resources and rock art of local and national significance located on both public and private land. We are not aware of the current level of protection afforded the public lands in this region.	See Response to Comment 162-7-CUL.	
Utah	O	191	10	Nine Mile Canyon – It is difficult to determine from the	See Response to Comment 177-6-CUL.	

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Archeological Research Institute, Inc.				provided map precisely the boundaries of the areas protected from surface disturbing activities. We have closely monitored the situation in Nine Mile over the past five years and we are very disturbed by the unnecessary damage to rock art dust. A world-class ancient thoroughfare has become a modern industrial thoroughfare on a dirt road.		

## Fire Management

Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
United States Environmental Protection Agency	G	6	23	Section 2.3.2. Climate Conditions Fire Drought and Natural Disasters pages 2-3: BLM notes that during periods of prolonged dryness or drought, on a site-specific basis, various management prescriptions may be invoked. For example, OHV closures may be implemented to minimize injury to the rangeland or to minimize the risk of spark-ignite fires. It is not clear whether BLM will consider closure during drought for other surface disturbing activities. We recommend that the field-based criteria be selected to establish prolonged drought using existing fire-risk methodologies. And that BLM should consider mitigation, including closures, of public lands to the list of surface disturbing activities.	The intent of this section was for BLM to develop Appropriate Management Response to deal with Fire, Drought, and Natural Disasters. Field based criteria would be an integral part of each site specific AMR. Closure of public lands would be an option of each AMR.	
United States Environmental Protection Agency	G	6	48	Section 4.2.2.5.1.1, Direct Effects of Prescribed Fire and Criteria Pollutants, Page 4-10: Please correct the typographical error in identifying carbon dioxide (CO <sub>2</sub> ) as a criteria pollutant and include carbon monoxide (CO) as a criteria pollutant that wildland fires and prescribed fires emit.	The language in the cited section will be amended to list the correct criteria pollutant as carbon monoxide.	X
Duchesne County Commission	G	10	7	Page 4-26, Section 4.4.2.5.4, Under Alternative E, it is inaccurate to state that forests and woodlands would be "managed to promote biodiversity and multiple use/sustained yield" when woodland harvesting or salvage would be not allowed and vegetation treatment would be limited to prescribed burns under certain conditions.	The wording of this section will be revised to read- "managed to promote biodiversity and multiple use"	
Duchesne County Commission	G	10	8	Page 4-27, Section 4.4.2.7.5, at the end of this paragraph, it should be stated that Alternatives C and E have less beneficial impacts on fire management when compared to Alternative B.	The BLM declines to make the suggested wording change for a variety of reasons including, but not limited to, the following: 1. The BLM does not find the suggested changed necessary or appropriate.	

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					<p>2. The suggested wording change does not substantively contribute to or clarify the discussion.</p> <p>3. The commenter did not provide any rationale why the suggested change is necessary or how the current data and analysis is incorrect.</p> <p>4. The suggested change expressed personal opinions or preferences.</p> <p>5. The suggested change had little relevance to the adequacy or accuracy of the RMP/EIS.</p>	
Utah Farm Bureau Federation	B	192	6	Livestock grazing is an important wildfire management tool. Grazing should be recognized as a tool for habitat manipulation and wildlife control. Optimum grazing of invasive species may not be within the agency's recognized grazing period, but would benefit from livestock harvest. In addition, areas may benefit from increasing prescribed numbers of livestock to manage build up of fuels.	Impacts of livestock grazing were analyzed in Section4.4.2.	

## Grazing

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United States Environmental Protection Agency	G	6	7	<p>Livestock and Grazing Management: Information presented in the Draft EIS indicates that 60 of the 160 grazing allotments in the Vernal Planning Area are rated in the "I" category meaning there is a need to 'improve' the existing resource condition. These 60 grazing units have been identified with ecological conditions that are unsatisfactory and which may regress further. The relationship, if any, between these degraded allotments and stream conditions was not provided in the Draft EIS. Despite the need to improve nearly 40% of the grazing allotments, the Draft EIS fails to present a range of alternatives for livestock management to consider means to address this declining resource trend. These range conditions result from historic grazing practices, but it is not clear how these historic practices relate to reported use, permitted uses, or increasing permitted grazing use as proposed in the Draft EIS. The Draft EIS does not establish how the BLM proposes to respond to livestock management should there be continued long-term drought. We suggest that the Final EIS provide a range of alternative livestock management practices and specific information to the public and decision maker that establishes how current rates of livestock use relates to reported use and to proposed permitted uses. An adequate range of alternatives that presents a means to prevent permanent impairment of range conditions would improve the Final EIS by depicting choices and consequences of the means to improve range conditions.</p>	<p>Comment noted. Section 2.3.2.4, Fire, Drought, and Natural Disasters of the DRMP addresses management actions to be taken with regards to drought on BLM lands within the Vernal Field Office. After coordination with affected permittees temporary reductions in authorized use would be used to mitigate grazing impacts during drought conditions on an allotment specific basis. This direction is in conformance with BLM policy as stated in Washington Office IM 2003-074 and BLM regulations at 43 CFR 4110.3-2. The severity of drought is affected by many factors including the amount and timing of precipitation, temperatures and conditions of the rangeland. Precipitation events can also be very sporadic so production on one allotment or even within one allotment may be drastically different than on an adjacent allotment or between areas within an allotment. Precipitation levels and drought indices can be used to help identify broad areas that may be affected by drought but may not be accurate at the allotment level. For these reason drought restrictions on a planning wide basis would not be appropriate and would not comply with BLM direction. BLM regulations, (43 CFR 4110.3-2, Decreasing permitted use) provide for the suspension of use on a temporary basis, as needed, to protect the rangeland resources from grazing impacts during drought periods. Allotment closures are also provided for in both the regulations and the DRMP when soil, vegetation or other resources on the public lands require immediate protection due to drought. Coordination and consultation with the affected permittees is also a requirement of the regulations and can only be accomplished on an allotment specific basis. As required by NEPA, the RMP/EIS analyzed a range of</p>	

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					alternatives and management actions to ensure that resources are protected and to ensure that a balanced approach was recommended that allows opportunities for legitimate land uses.	
United States Environmental Protection Agency	G	6	26	Section 2.4.7.4, Grazing in River Corridors, page 2-19: The document states, "If grazing is causing resource degradation and all other options have been exhausted, temporarily close those riparian areas that do not satisfactorily respond to changes in management". BLM could identify the time frame the degradation will be allowed to continue and the expected response time of the degraded habitat will continue until action is taken.	The RMP adopts the Utah Rangeland Health Standards under all alternatives. These standards include specific management goals related to riparian. The BLM, by adhering to these Standards, would be managing to meet these riparian goals. See Table 2.3, page 2-53 (Riparian) of the DEIS for information on grazing in riparian zones.	
United States Environmental Protection Agency	G	6	49	Section 4.7.2.6 Summary of Livestock and Grazing Management, page 4-95: This section describes different levels of rangeland Improvement by Alternative. No information is provided on the level of funding for the proposed rangeland improvement nor any discussion of the option of fencing or reducing livestock allotments to provide for range improvement. Rotation and periodic "resting" of particularly areas should be considered. Further consideration should be given to providing upland watering areas to reduce the impact of grazing upon riparian areas.	Please refer to DEIS RTC/LG15A response	
United States Environmental Protection Agency	G	6	50	Section 4.7.3 Mitigation Measures for Livestock and Grazing Management, page 4-95: The mitigation discussed relates to prescribed burning and not to livestock and grazing management. Do the priorities established for rangeland improvements focus on either the 'impaired' allotments or within watersheds listed as impaired for total dissolved solids under the State's CWA 303(d) list? What is the schedule for rangeland improvements under the preferred alternative?	There is no set schedule for Rangeland Improvements. Rangeland Improvements are determined on a site specific analysis and are predicated on funding.	
Sweetwater Country	G	9	8	The Supplement does not adequately address the impacts to livestock operations and rangeland resources,	Table 2.3 Alternatives, Page 2-10 and 4.21.2.14.2 Alternative E. of the Supplement provides for maintenance	

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Conservation District				if Alternative E were adopted. Most livestock permittees could not reach existing range improvements by motor vehicle in order to repair and maintain them. It would be difficult if not impossible to install new range improvement structures. BLM needs to identify the affected range improvements and potential impacts to livestock operations in Daggett County.	and construction of Range Improvements.	
Sweetwater Country Conservation District	G	9	9	It is also well established that the construction of range improvements is not consistent with the preservation of alleged wilderness character. DEIS inaccurately assumes that the exact location of anticipated rangeland projects are presently unknown. Most operators have a backlog of planned but unfunded range improvements and vegetation treatments. The DEIS needs to disclose these reasonably foreseeable improvement projects and the cumulative effects in the Supplement and fully analyze Alternative E's adverse impacts on the environment and the livestock grazing permittees if future or planned range improvement projects were not allowed to proceed. As the draft RMP acknowledges, rangeland management, including livestock operations, must be able to show that they meet, maintain, or are making progress towards meeting the rangeland health standards. 43 C.F.R 4180.2. In most cases, range structures and vegetation projects are the best way to allow livestock grazing to continue and yet address resource issues. In addition to livestock grazing, rangeland resource conditions reflect many land issues, including wildlife, wild horses, drought, recreation, and oil and gas development.	The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which include changes in grazing, increases in grazing, and livestock developments, etc.	
Sweetwater Country Conservation District	G	9	10	Alternative E will have significant adverse environmental effects, because range improvements that benefit soil, water quality, vegetation, and wildlife habitat, will be prohibited or restricted. The EIS must fully disclose and analyze the cumulative effects on these resources where	Table 2.3 Alternatives, Page 2-10 and 4.21.2.14.2 Alternative E. of the Supplement provides for maintenance and construction of Range Improvements.	

## Grazing

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				Alternative E would prohibit or restrict beneficial actions.		
Sweetwater Country Conservation District	G	9	11	The DEIS fails entirely by incorrectly assuming no impact on rangeland management. This misconception must be corrected and the DEIS must disclose acres of sage brush that might not be treated, riparian or meadows that may not improve, and pinon-juniper stands that will continue to encroach on sage brush. The DEIS must also discuss the impacts on the sage grouse populations that stand to otherwise benefit from vegetation improvement infestations. Classification as a non-WSA will preclude treatment, thus infesting adjacent healthy forests and increasing the risk of catastrophic fire.	Table 2.3 Alternatives, Page 2-10 provides for vegetation treatment.	
Sweetwater Country Conservation District	G	9	18	<p>BLM May Not Eliminate Grazing Non-Use in the RMP:</p> <p>Under Alternative E, a total of 77,294 Animal Unit Months (AUMs) would be allocated to livestock, a total of 106,196 AUMs would be allocated to wildlife, and a total of 3,960 AUMs would be allocated to wild horses. The number of livestock AUMs was determined by removing historic non-use AUMs (available AUMs not used over the past 10 years) from the no action alternative for the life of the management plan. Non-use by permittees would be the result of factors such as private business reasons, livestock market fluctuations, and drought conditions. This would result in an approximate 47.1% permitted use reduction for livestock and grazing uses. Supplement at 4-31.</p> <p>In order to adequately consider the impacts to livestock grazing, BLM must specifically identify the allotments which would lose non-use AUMs and calculate the number of lost AUMs by allotment. In addition, BLM fails to articulate a legal or factual basis to reduce permitted use, and as written, Alternative E violates BLM grazing</p>	As provided for in FLPMA, the Secretary has the discretion, in the land use planning process, to modify levels of use including livestock grazing. The RMP proposes, in all alternatives, to use monitoring information to adjust forage allocations based on current levels of livestock use, wildlife herd unit objectives, and wild horse AMLs in relationship to objectives set forth in each alternative (see alternative tables). This will assure that allocation levels are within the rangeland's ability to sustain them. While it is the goal of the BLM to enhance rangeland health while providing for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM neither to "retain full grazing preference AUMs" nor to take "all necessary actions to do so". According to FLPMA, BLM is to manage for "multiple uses" which best meet the present and future needs of the American people without permanently impairing the productivity of the land. The use of monitoring data to adjust forage allocations based on the lands capability is consistent with FLPMA, PRIA, and the TGA.	

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				<p>regulations.</p> <p>BLM may not adopt an across the board reduction in permitted use in the RMP. Permitted use includes non-use, 43 C.F.R. 4100.0-5, and BL may only reduce permitted grazing use when monitoring or field observations or ecological site inventory or other data demonstrate that grazing use is causing an unacceptable level or pattern of utilization, that rangeland health standards are not being met or that use exceeds livestock carrying capacity. 43 C.F.R 4110.3, 4110.3-2.</p> <p>Furthermore, changes in permitted use may only be implemented by appeal able decision, on a case by case basis, after consultation, cooperation and coordination with the affected grazing permittee. Id at 4110.3-3. Alternative E's unilateral elimination of grazing non-use, therefore, is illegal.</p>		
Duchesne County Commission	G	10	9	<p>Page 4-31, Section 4.7.2.2.5 and Page 4-98 (Table 4.14.1) Forage Management under Alternative E would be inconsistent with the Duchesne County land use plan in that forage for livestock would be reduced 47.1% in favor of wildlife and wild horses. The county plan states as follows": "Livestock allocations shall not be converted to wildlife allocations as long as the land supports the grazing Animal Unit Months (AUM's) assigned to the allotment. The only justification for decreasing domestic livestock grazing AUM's is for there to be a valid and documented scientific finding that the range district will no longer support the AUM's in question. The BLM and Forest Service are expected to comply with and honor the domestic grazing preference on grazing districts."</p>	<p>In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and</p>	

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					<p>inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p>	
Duchesne County Commission	G	10	15	Page 4-47, Section 4.9.2.4.5, 2nd sentence: Why is it that surface disturbances associated with rangeland improvements are deemed beneficial as they would increase the potential of making new paleontological discoveries; while other types of surface disturbances are not found to have the same benefit? For example, in Section 4.9.2.7.5, on Page 4-48, Class I and II VRM management under Alternative E is found to have the fewest adverse impact on paleontological resources. However, using the rationale from Section 4.9.2.4.5, Class I and II VRM would be less beneficial as there would be less surface disturbances and less chance to actually discover and study such paleontological resources.	Section 4.9.2.4.5 indicates that “it is anticipated that the primary indirect impact would be to increase the adverse potential for concentrated trampling of paleontological localities located in areas adjacent to fencing or reservoirs on barren bedrock.” This means that more surface disturbing activities have the greatest potential to impact paleontological resources	
Duchesne County Commission	G	10	40	Page 4-125, Section 4.18.2.8.3: This section gives the reader the impression that Alternatives C and E provide the most range improvements. Table 4.18.2 shows that	Table 4.18.2 indicates Alternative E, not Alternative B.	

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				Alternative B actually provides the most range improvements.		
Duchesne County Commission	G	10	41	Page 4-132, Section 4.19.2.6: This section favorably compares Alternatives C and E to Alternative D; however, it fails to recognize that Alternative C and E offer fewer rangeland improvements than Alternative B (see Table 4.19.8).	In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.	
Duchesne County Commission	G	10	44	Page 4-153, Section 4.21.2.4.1: This section focuses on removal of livestock from the Nine Mile--Desolation Canyon areas. It is not clear from this section how the other 24 non-WSA areas will be treated...will livestock be removed from all of them? Does the grazing restriction apply only to lands in Nine Mile Canyon itself or would it also affect the numerous grazing allotments in Duchesne County north of the canyon rim?	As Page 4-153, Section 4.21.2.4.1 states "Under these alternatives, lands acquired in the Nine Mile area would not be grazed by livestock to enhance riparian and watershed values." This only applies to lands acquired in Nine Mile as stated above.	
Daggett County	G	11	7	UCA 63-38d-401 - Essentially states that if rangeland conditions improve that suspended AUMs would be returned to livestock before additional AUMs would be provided for wildlife. We are concerned that this has not and is not being adhered to with respect to the proposal presented in Alternative E.  Because of the value of grazing, state law prohibits permanent closure of grazing allotments and conversion of livestock AUMs to wildlife or other uses. The correct standard is not whether BLM may permanently close an entire grazing allotment, but whether BLM may diminish a single grazing AUM for any reason other than rangeland conditions. The "close an entire grazing allotment" standard misses the mark of House Bill 264 and is inconsistent with Daggett County Public Land Policy and	In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.  The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and	

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		<p>Plans by a serious margin. Those policies and plans are summarized as follows:</p> <p>Domestic livestock and forage in the VFO planning area expressed in animal unit months, for permitted active use, as well as the wildlife forage included in that amount, should be no less than the maximum number of animal unit months sustainable by range conditions in grazing districts and allotments in the VFO planning area, based on an on-the-ground and scientific analysis.</p> <p>Where once available grazing forage in the VFO planning area has succeeded in pinion, juniper and woody vegetation and associated biomass, or where rangeland health in the Region has suffered for any other reason, a vigorous program of mechanical treatments such as chaining, logging, seeding, lopping, thinning, and burning and other mechanical treatments should be applied to remove the woody vegetation and biomass and stimulate the return of the grazing forage to its historic levels for the mutual benefit of livestock, wildlife and other agricultural industries in the VFO planning area.</p> <p>The land which comprises the grazing district and allotments in the VFO planning area is still more valuable for grazing than for any other use which might exclude livestock grazing. Such other uses include, but are not limited to, conservation of AUMs to wildlife watershed or wilderness uses. Accordingly, animal month units in the VFO planning area may not be relinquished or retired in favor of conservation, wildlife, or other uses.</p> <p>From time to time a bonafide livestock permittee in the VFO planning area, acting in good faith and not to</p>	<p>inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>While County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p>	

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		<p>circumvent the intent of the BLM's grazing regulations, may temporarily cease grazing operations without losing his or her permitted AUMs it is proposed in Alternative E to transfer these AUMs to wildlife or to watersheds this is counter to state law, BLM regulations that provide for non use and Daggett County policy. However, BLM-imposed suspensions of use or other reductions in domestic livestock animal unit months should be temporary and scientifically based on rangeland conditions.</p> <p>The RMP fails to articulate a legal or factual basis to reduce domestic livestock and as written, Alternative E violates BLM grazing regulations. BLM may not implement an across the board reduction in permitted grazing use in the RMP. Permitted use includes non-use, and BLM may only reduce permitted grazing use when monitoring or field observations or ecological site inventory or other data demonstrate that grazing use is causing an unacceptable level or pattern of utilization, that rangeland health standards are not being met or that use exceeds livestock carrying capacity. Furthermore, changes in permitted use may only be effected by appeal able decision after consultation, cooperation and coordination with affected grazing permittee. 43 C.F.R 4110.3, 4110.3-2, 4110.3-3. Alternative E's across the board elimination of grazing non-use, therefore, is illegal.</p> <p>The transfer of grazing animal unit months (AUMs) to wildlife for supposed reasons of rangeland health imputed, in each AUM, a reasonable amount of forage for wildlife component.</p> <p>Any grazing animal unit months that may have been reduced in the VFO planning area due to rangeland</p>		

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				<p>health concerns should be restored to livestock when rangeland conditions improve, not converted to wildlife use.</p> <p>Moreover, Daggett County wants the Subject Lands to be eligible for prescriptive uses of grazing that are flexible and adaptive to the full extent allowed by relevant BLM grazing regulations, in order to minimize rangeland fire danger, curb noxious weed incursions, and otherwise promote rangeland health and to continue to sustain the social-economies base that grazing provides to the local economy.</p>		
Daggett County	G	11	8	<p>Of particular concern is the proposal to transfer livestock AUMs associated with the BVVI to wildlife this proposal is counter to provisions of Utah state law and Daggett County Public Land Policy. No where in the Environmental Assessment or the Record of Decision associates with the purchase of these lands is it proposed or even suggested that livestock AUMs would be or could be transferred to wildlife. The BCCI agreement lacks the same language. It has long been the County's position that such agreements were made without public input, were and are illegal, and never had local government input. Alternatives that directly or indirectly converts livestock AUMs to wildlife must not be selected.</p>	<p>In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p>	

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			<p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5. Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	

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Daggett County	G	11	9	<p>The phrenology criteria described in Alternative A are an appropriate consideration in setting seasons of use for an allotment, but not as an across-the-board prescription for the entire planning area. As used, the RMP does not allow managers or permittees sufficient flexibility to accommodate yearly variations in weather, precipitation, and plant phrenology or variations in elevation, topography, or aspect within the identified areas.</p> <p>The RMP proposes to exclude from forage allocations all land that produces less than 25 or 32 pounds of forage per year. See DEIS 2-11. The draft RMP and DEIS do not analyze the effects of doing so even though much of the planning area is a high mountain desert and produces less than 25 pounds of forage a year. These criteria could remove significant volume of forage and acreage from livestock grazing. Range science does not support this proposal and the DEIS inadequately discloses and assesses the effects.. While livestock may use the steep slopes less, wildlife and wild horses graze these areas. By excluding these areas from the forage allocation and calculations, the RMP actually allocates significantly more forage for wildlife and wild horses than is disclosed in the RMP and imposes domestic grazing reductions by removing land from the permit. The grazing rules require that such changes be made in consultation and coordination with the individual permittee rather than unilaterally throughout the planning area. In addition, the grazing rules require consultation with the permittee before amending the permit to exclude land. 4110.4-2. 43 C.F.R.</p>	The BLM agrees that changes must be done in consultation, coordination, and cooperation with the permittee. 43 C.F.R. §4110.2-3. The BLM has merely provided criteria to use to when adjustments are required.	
Daggett County	G	11	10	We object to the extent the Supplement attempts to authorize the retirement of grazing permits and their reallocation to wildlife. This violates the Taylor Grazing	Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The	

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				<p>Act, 43 U.S.C. § 315, FLPMA, 43 U.S.C. § 1742, and the terms of the Executive Orders No. 6910, 54 I.D. 539 (1934), and No. 6964 (Feb. 5, 1935), which withdrew public lands as chiefly valuable for grazing. Any such decision would also require amending the Presidential Executive Orders, which BLM cannot do, since authority to amend a withdrawal is limited to the Interior Secretary. The Tenth Circuit in <i>Public Lands Council v. Babbitt</i>, 167 F.3d 1287 (10th Cir.1999), aff'd on other grounds, 529 U.S. 728 (2000), held that BLM could not offer permits not to have domestic livestock graze public lands, since grazing permits are limited to domestic livestock. By the same token, BLM cannot purport to authorize wildlife grazing by retiring grazing permits in order to allocate the forage for wildlife. This action would also constitute a change in grazing use without following the procedures set out in the BLM grazing rules. 43 C.F.R. §§ 4110.3, 4110.4. It is also inconsistent with the grazing rules which provide for BLM to offer a vacant permit to other qualified permittees. 43 C.F.R. §4130.1-2.</p>	<p>BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates</p>	
Karen Budd	I	20	2	<p>The original DRMP/DEIS failed to properly address grazing related issues in violation of FLPMA (+S U.S.C. 5§ rTor-r785), the Taylor Grazing Act ("TGA") (43 U.S.C. 5§ StS-gr5r), and the Public Rangelands improvement Act ("PRIA") (43 U.S.C.S S 1901-19o8), and applicable regulations or policies of the Department of the Interior. These Federal mandates were implemented "to stabilize, preserve, and protect the use of public lands for livestock grazing purposes . . ." and to ensure the proper administration of such grazing. <i>Barton v. United States</i>, 609 F.zd g77 (10th Cir. 1979).</p>	<p>The VFO Proposed RMP/Final EIS is in compliance with the Taylor Grazing Act, as well as, applicable regulations, policies and guidance.</p> <p>The VFO determined the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands "regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses". FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land</p>	

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		<p>The purpose of the TGA was to establish] a threefold legislative goal to regulate the occupancy and use of the Federal lands, to preserve the land and its resources from injury due to overgrazing, and 'to provide for the orderly use, improvement, and development of the range. "Public Lands Council v. Babbitt, r54 F.3d 1160 at 1161(10th Cir.1998).' "One of the key issues the [TGA] was intended to address was the need to stabilize the livestock industry by preserving ranchers' access to the Federal lands in a manner that would guard the land against destruction." Id.</p> <p>By enacting the TGA, Congress authorized the reservation of public lands for the primary purpose of livestock grazing. See, President's Statement of Approval, 1943 Preface. The TGA specifically authorized he Secretary of the Interior to create grazing districts on all unreserved public lands. See,43 U.S.C.315. In establishing these grazing districts, the Secretary of the Interior selected lands that were "chiefly valuable for grazing and raising forage crops." These grazing districts were created to promote the highest use of the public land.</p> <p>The Tenth Circuit Court of Appeals has stated that once lands are included within established grazing districts," the primary use of that land should be grazing." Public Lands Council v. Babbitt, 167F.3d 1287, 1308(10thCir. 1999). Thus, in order to eliminate grazing in a grazing district, the responsible Federal agency must establish a showing of good cause. See 43 C.F.R. § 4110.3 (stating that changes in grazing use "must be supported by monitoring, field observations,</p>	<p>use plan.</p> <p>While it is the goal of the BLM to enhance rangeland health while providing for and recognizing the need for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM to maximize the number of domestic livestock AUMs.</p> <p>According to section 2 of the TGA, it is the objective of the act to regulate the occupancy and use of the Grazing Districts and to preserve these lands.</p>	

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		<p>ecological site inventory or other data acceptable to the authorized officer.").</p> <p>The Tenth Circuit Court of Appeals has also ruled that grazing permits may only be issued for grazing purposes and not for other purposes such as conservation use. The Court explained that while the Secretary of the Interior may include considerations such as "conservation" within the terms of a grazing permit, and may even suspend grazing for a period of time if in the best interest of the range, permits are to be issued for grazing alone. <i>Public Lands Council v. Babbitt</i>, 167 F.3d 1287, 1308 (10th Cir. 1999). Absent an express justification that is properly substantiated, grazing must continue.</p> <p>The TGA requires the Secretary of the Interior to "do any and all things necessary to accomplish the purposes of [the TGA] and to insure the objects of such grazing districts, namely to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, [and] to provide for the orderly use, improvement and development of the range . . . ." See 43 U.S.C. 315a. PRIA defines the term "rangeland" or "public rangeland" to mean BLM administered land "on which there is domestic livestock grazing or which the Secretary concerned determines maybe suitable for livestock grazing." See 43 U.S.C. 1902(a).</p> <p>Based on the information provided in both the DRMP/DEIS and Supplement, every alternative, besides the no action alternative, would</p>		

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				<p>increase the number of AUMs to wildlife and decrease the number of AUMs for grazing. See DRMP/DEIS at Tables 2.3; see also, Supplement at 2-5. Specifically Alternative E, eliminates historic non-use AUMs for wildlife. See Supplement at 4-31. Alternative E also provides that when livestock AUM use conflicts with wildlife AUM use, then livestock use would be reduced. Id. at 2-6. If forage conflicts between livestock and wild horses develop, use by both livestock and wild horses will be reduced, but the wild horse herd would not be reduced below 40 animals. Id. at 4-122. If wild horse AUM use conflicts with wildlife use, wild horse use too would have to be reduced. Id.</p> <p>In order to reallocate AUMs in such a manner, the BLM must provide sufficient justification for the change particularly in light of the requirements of the TGA as explained above. Neither the DRMP/DEIS nor the Supplement contain any discussion as to why livestock AUMs should be reduced and given to wildlife. Without a proper discussion and rationale for such a reallocation, as well as a showing of good cause, the reallocation is arbitrary and capricious and violates the letter and purpose of the TGA.</p>		
Karen Budd	I	20	3	<p>There are numerous reasons that the reallocation of AUMs to wildlife and the stealing of AUMs from livestock use is unlawful. First, the AUM numbers presented in the DRMP/DEIS and the Supplement do not add up. The following table illustrates Alternatives A-D as provided in the DRMP/DEIS and Alternative E as provided in the Supplement</p>	<p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with</p>	

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				<p>Alternative A    Alternative B                      Alternative C    Alternative D (No Action)                      Alternative E                      Livestock 137,838; 139,163; 77,294; 146,161; 77,294                      Wildlife 104,871; 104,871; 106,196; 96,607; 106,106                      Wild Horses 2,940; 0; 3,960; 3,360; 3,960                      Total 245,649; 244,034; 1B7,450; 246,128; 187,450</p> <p>See DRMP/DEIS at Table 2.3 (p. 43); see also, Supplement Table 2.3 at 2-5. This table begs the question that if the total AUMs in the No Action alternative is 246,128, where are the rest of the AUMs in the other alternatives.</p>	<p>achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	
Karen Budd	I	20	4	<p>Second, besides the discrepancies with the numbers of AUMs in the DRMP/DEIS and Supplement, both documents fail to comply with the TGA, PRIA, and BLM regulations in reallocating AUMs from livestock to another use (wildlife or wild horses). Before such a reallocation from livestock use is done, the BLM must show that the lands within the grazing districts are no longer chiefly valuable for livestock grazing. See Public Lands Council v. Babbitt, 167 F.3d 1287, 1308 (10th Cir. 1999); 43 U.S.C. 315; 43 C.F.R. 4110.3; 43 U.S.C. 1903; Mountain States Legal Foundation v. Andrus, 499 F.Supp. 383 (D. Wyo. 1980). Moreover, any change or modification in grazing use, according to the BLM's own regulations, "must be supported by monitoring, field observations, ecological site inventory, or other data acceptable to the authorized officer." See 43 C.F.R. 4110.3.</p> <p>Thus, in order to cut AUMs allocated to livestock grazing</p>	<p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning</p>	

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				<p>under the TGA, the BLM must first make a finding that livestock is no longer a valid multiple-use. The BLM cannot make such a finding arbitrarily or capriciously. The TGA requires the BLM to "adequately safeguard "the livestock grazing permittees' grazing privileges. See 43 U.S.C. 315b; see also, 43 U.S.C. 315a (mandating that the BLM "provide for the orderly use, improvement, and development of the range.")</p> <p>In this case, the BLM has eliminated a valid and recognized public use, livestock grazing, without proper or sufficient justification under the law or the facts. While still in the planning stages for the new RMP and EIS, the BLM should rectify this serious error. The livelihood and heritage of ranchers is directly affected by such an action. The importance of ranching to the community is understood and recognized by the BLM in the DRMP/DEIS. See DRMP/DEIS at 3.12.1, 3.12.2.1, and 3.12.4.2.</p>	<p>discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates</p>	
Karen Budd	I	20	5	<p>Third, the Solicitor or the Department of the Interior has expressly stated that even when a permittee voluntarily relinquishes a grazing permit, unless the Secretary of the Department of the Interior officially determines through land use planning that there is a better use for that land than grazing, "the forage attached to the permit remains available for other permittees until the TGA classification is terminated or the land is removed from the grazing district." Id. The Solicitor goes on to state that "[a]s long as the boundary of the grazing district remains in place and the classification and withdrawals remain in effect, there is a presumption that grazing with a grazing district should continue." Id. citing</p>	<p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p>	

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				<p>Public Lands Council v. Babbitt, 167F.3d 1287, 1308(10th Cir.1 999), aff'd on other grounds, 529 U.S.728 (2000).</p> <p>The lands in this case have neither been determined by the Secretary for a better use nor removed from a grazing district. Thus, any retirement or removal from grazing is contrary to Federal law. This violation of law as contained in the current DRMP/DEIS and Supplement and therefore must be addressed and fully remedied before the final RMP/EIS is published.</p>	<p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	
Karen Budd	I	20	6	<p>Fourth, Alternative E removes the historic non-use AUMs to determine the total AUMs allotted for grazing while providing additional AUMs for wildlife. See Supplement at 4-31. This is in opposition with the grazing regulations which consider AUMs placed in non-use as still a part of the grazing permit and grazing preference which ranchers can still rely on. Under the regulations, a grazing permit is a document which authorizes grazing on public lands and specifies the grazing preference, as well as the terms and conditions under which permittees may make grazing use during the term of the permit. See 43 C.F.R. 4100.0-5. The grazing preference specified in each permit means "the total number of animal unit months on public lands apportioned and attached to the base property owned or controlled by the permittee, lessee or applicant for a permit or lease. Grazing preference includes active use and use held in suspension." See Id. [emphasis added].</p> <p>Before the BLM may change grazing preference it must undertake the appropriate analysis under NEPA. See 43</p>	<p>As provided for in FLPMA, the Secretary has the discretion, in the land use planning process, to modify levels of use including livestock grazing. The RMP proposes, in all alternatives, to use monitoring information to adjust forage allocations based on current levels of livestock use, wildlife herd unit objectives, and wild horse AMLs in relationship to objectives set forth in each alternative (see alternative tables). This will assure that allocation levels are within the rangeland's ability to sustain them. While it is the goal of the BLM to enhance rangeland health while providing for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM neither to "retain full grazing preference AUMs" nor to take "all necessary actions to do so". According to FLPMA, BLM is to manage for "multiple uses" which best meet the present and future needs of the American people without permanently impairing the productivity of the land. The use of monitoring data to adjust forage allocations based on the lands capability is consistent with FLPMA, PRIA, and the TGA.</p>	

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				<p>C.F.R. 4110.3. As detailed below, the current DRMP/DEIS and Supplement thereto do not satisfy this requirement as the mandates of NEPA have not been complied with. Provided that NEPA is complied with, the BLM must also give permittees and lessees two years prior notice before cancelling a grazing permit and eliminating a grazing reference even if part of that preference is in non-use. See 43 C.F.R. 4110.4-2.</p> <p>The current DRMP/DEIS and Supplement fail to comply with these provisions as every one of the alternatives decrease AUMs for livestock grazing and Alternatives E and C remove historic non-use AUMs to determine total AUMs allotted for grazing. Any changes in grazing total AUMs as provided by the regulations above can only be implemented through a showing of good cause. Should a NEPA review provide that it is in the best interest to cancel grazing permits, this to requires notice and may only be accomplished after a two year notice period has been satisfied. As these regulations have not been satisfied, case law supports non-use AUMs being considered a part of the permittees' grazing permit and cannot be taken unless formally relinquished.</p>		
Karen Budd	I	20	7	The TGA mandates that recognized and acknowledged grazing privileges be adequately safeguarded. See 43 U.S.C. 345b. To adequately safeguard grazing rights, regulations were promulgated that establish both the grounds for modifications of grazing privileges and the process by which these modifications must be accomplished. If these regulations are not	Comment noted. The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the	

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		<p>followed, the resulting decisions will be declared unreasonable and invalid. The significant expansion of oil and gas development on Mr. Robinson's grazing allotments will result in a failure to "stabilize, preserve, and protect the use of public lands for livestock grazing purposes." The BLM must consider whether this significant expansion will infringe upon the rights protected by the TGA.</p> <p>Additionally, the Mineral Leasing Act ("MLA") contain significant requirements for the BLM once oil, gas and pipeline development occurs. The MLA was enacted to provide for the leasing of public mineral rights. See 30 U.S.C. 181 et seq. Under the MIA, the BLM has the broad power to both lease public lands and to ensure compliance with environmental and other regulations. Specifically, "[t]he Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations. . . ." See 30 U.S.C. 189. Under the MLA, the "authorized officer...is ... Directed to... require that all operations be conducted in a manner which protects other natural resources and the environmental quality, [and] protects life and property." Id. Based upon the plain reading of the above regulations, it is clear that as part of its duties under the MLA, the BLM is required to protect the range resources and environment upon which Mr. Robinson depends. Oil and gas lessees are required to exercise due care and diligence to assure that leasehold operations do not result in undue damage to surface or subsurface resources or surface improvements. Additionally, upon the conclusion of operations, the operator shall reclaim the disturbed surface in a manner approved or</p>	<p>authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. See comment response LG45A regarding FLPMA policy to manage the public lands on the basis of multiple use and sustained yield.</p> <p>While it is the goal of the BLM to enhance rangeland health while providing for and recognizing the need for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM to maximize the number of domestic livestock AUMs. According to section 2 of the TGA, it is the objective of the act to regulate the occupancy and use of the Grazing Districts and to preserve these lands.</p>	

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				reasonably prescribed by the authorized officer. See 43 C.F.R. 3162.5-1. There is no indication the BLM has the staff or resources to ensure compliance with these regulations and that Mr. Robinson's grazing use will be protected. These issues have to be analyzed as part of the NEPA process which, as detailed below, has not been complied with. The effects and impacts on grazing and livestock are real and should be adequately addressed in the RMP/EIS.		
Karen Budd	I	20	9	<p>Those lands which were identified under Section 603 as WSAS would be managed in a manner that did not impair the suitability of such areas for preservation and official designation as wilderness. See 43 U.S.C. 1782(c). This is often referred to as the "nonimpairment standard". However, courts have determined that grandfathered uses, which include grazing, are not subject to the non-impairment standard. <i>Rochv Mountain Oil and Gas Association v. Watt</i>, 696 F.2d 734, 749 (10th Cir.1982). Grandfathered uses may continue even if they impair wilderness characteristics. <i>Id.</i> Those uses that are considered "grandfathered" according to Section 603 were those uses that were being conducted on October 21, 1976. <i>Id.</i> At 746. These grandfathered uses are exempt from the Wilderness Act to "the manner and degree in which [they were] being conducted on October 21, 1976. <i>Id.</i> At 747. The BLM, however, is required to take actions that will prevent the unnecessary or undue degradation of the WSAs. <i>Id.</i> Courts have further indicated that "unnecessary" is that which is not necessary for the grandfathered use and "undue" is that which is excessive, improper, immoderate, or unwarranted. <i>Utah v. Andrus</i>, 486 F. Supp. 995, 1010 (D. Utah 1979).</p>	Comment noted.	

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Karen Budd	I	20	10	The case law interpreting section 603(c) has created two distinct land management standards for WSAs that apply depending on what the land is being used for and when that use began. Those standards are (1) the non-impairment standard and (2) the undue degradation standard. See The Wilderness act of t964: a Practitioner's Guide, 21 J. Land Resources and Env'tl. L. 21 at 269-70 (2001). The undue degradation standard applies when there is either a valid existing right to the land that pre-existed FLPMA or when the land is used for grazing, mining, or mineral leasing which began before the passage of FLPMA (October r,1976) and is considered grandfathered See 43 U.S.C.1782(c). This standard requires that the least degrading land use alternative be implemented. The no impairment standard applies to all other land use in WSAs. Sierra Club v. Watt, 608 F. Supp. 305, 335 (D.C. Cal. 1985). As stated by the Tenth Circuit, this interpretation "comports with common sense." Rocky Mountain Oil and Gas, 696 F.2nd at 750..	Comment noted.	
Karen Budd	I	20	11	To date, with very limited exceptions, Congress had not acted on the President's recommendations and the public lands areas designated as W WSAs continue to be managed as such.	Comment noted.	
Karen Budd	I	20	12	that the BLM's authority under section 603 of FLPMA to conduct wilderness reviews terminated no later than 1993. Id. at *4. As a result, the BLM is without authority to establish post-603 WSAs. Id. At *18. However, under Section 201, the BLM still has the authority to conduct public lands inventories the purpose of which is to "prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values" so that the present use may be protected through the land use planning	Comment noted.	

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				process. Id. at *19. Under Section 201, areas are generally managed according to Section 202's multiple use and sustained yield land use policy whereas those areas that were eligible for wilderness preservation under Section 603 are required to be managed in a manner that does not impair the suitability of the area for preservation as a wilderness. Id., see also, 43 U.S.C. 1782(c).		
Karen Budd	I	20	13	Multiple use means managing public lands "so that they are utilized in the combination that will best meet the present and future needs of the American people." See 43 U.S.C. 1702(c). Sustained yield means "the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use." Id.	Comment noted.	
Karen Budd	I	20	14	The Supplement fails to follow these mandates for both the WSAs and the non-WSAs with wilderness characteristics. For those lands which have been designated WSAs, grandfathered uses must be allowed to continue. This means allowing grazing, including the ownership and possible use of current non-use AUMs, and mineral leasing to continue in the manner and degree in which the same was being conducted on October 21, 1976. Rocky Mountain Oil, 696 F.2d at 739. All that the BLM is allowed to do is take action to prevent unnecessary and undue degradation. Id. Thus, grandfathered uses must be allowed to be maintained and improved in the traditional manner regardless of whether it involves motorized vehicles to access areas, or building/improving range improvements. Any activity, whether it be grazing or mining, that occurred before 1976 must be allowed to continue in the same manner and degree as it took place	The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which include changes in grazing, increases in grazing, and livestock developments, etc.	

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				in 1976. Id.		
Karen Budd	I	20	15	The Supplement provides that should existing WSAs be released from wilderness consideration and management by Congress the released W WSAs would be managed to protect the wilderness characteristics. The proposal states that such areas would be closed to oil and gas leasing, mineral leasing, and that construction of livestock facilities would only be allowed if compatible with the goals and objectives for management of non-WSA lands with wilderness characteristics. See Supplement at 2-t6. This analysis is legally incorrect. Should the lands be released from wilderness consideration, they must be managed according to the multiple use and sustained yield standard, not a standard which prohibits other uses in favor of wilderness characteristics. Additionally, those uses which were grandfathered in under FLPMA must be allowed to continue at the 1976 levels.	The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which includes changes in grazing, increases in grazing, and livestock developments, etc.	
Karen Budd	I	20	16	The Supplement under Alternative E , proposes closing all non-WSA lands with wilderness characteristics to mineral leasing and off-road vehicles. See Supplement 2-3. Approximately 228 miles of off-road vehicle routes would be closed to travel. Id. at 4-21. With the closure of over 200 miles to off-road vehicles in the non-WSA areas, accessing those "valid existing rights" and/or grandfathered uses is made nearly impossible. It is not feasible to access oil and gas projects, nor to graze livestock and make range improvements entirely through the use of non-motorized travel.	Please see Response to ID No. G-20-Comment 15.	
Karen Budd	I	20	17	For non-WSA lands under Alternative E, there would also be prohibitions on changes in class of livestock when fencing or other structures would be necessary, if the conversion would result in resource conflicts, or if the	Section 4.7.2.6.2 Alternative E, states "Management decisions to protect these values include prohibitions on changes in class of livestock (e.g., sheep to cattle) when fencing or other structures would be necessary, if the	

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				<p>action was not consistent with the goals and objectives of protecting the non-WSA lands with wilderness characteristics. Id. at 4-34. Again, lands must be managed under the principles of multiple use and sustained yield, and not simply to protect wilderness characteristics to the detriment of ranchers who financially depend on the ability to graze livestock including the ability to make any and all necessary range improvements.</p>	<p>conversion would result in resource conflicts, or if the action was not consistent with the goals and objectives of protecting the non-WSA lands with wilderness characteristics. However, new livestock facilities can be constructed in non-WSA lands with wilderness characteristics if consistent with the goals and objectives of managing non- WSA lands with wilderness characteristics.”</p>	
Karen Budd	I	20	18	<p>An EIS is supposed to address mitigation measures that will be implemented to reduce harmful environmental impacts. See 40 C.F.R. 1502.14(f) and 1502.16, see also 40 C.F.R. 1505.3; Tyler v. Cuomo, 236 F.3d 1124, 1135-36(9th Cir.2000) ("Under 40 C.F.R. 1505.3, mitigation established during review of the EIS "and committed as part of the decision shall be implemented by the lead agency."). With regard to mitigation in an EIS, the Council on Environmental Quality stated the following:</p> <p>The mitigation measures discussed in an EIS must cover the range of impacts of the proposal. The measures must include such things as design alternatives that would decrease pollution emissions, construction impacts, esthetic intrusion, as well as relocation assistance possible land use controls that could be enacted, and other possible efforts. Mitigation measures must be considered even for impacts that by themselves would not be considered "significant." Once the proposal itself is considered as a whole to have</p>	<p>Comment noted.</p> <p>The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public. An Interdisciplinary team of resource specialist, with on-the-ground knowledge of the planning area, analyzed the current management situation, desired conditions, the uses and activities to create a framework to resolve the issues raised through the development of the alternatives. A balanced approach consistent with FLPMA’s principles of “multiple use” was a key component of the analysis.</p>	

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		<p>significant effects, all of its specific effects on the environment (whether or not "significant") must be considered, and mitigation measures must be developed where it is feasible to do so. Sections 1502. L4(f),1502. 16(h), 1508. 14.</p> <p>See NEPA's 40 Most Asked Question (Answer to 19).</p> <p>The DRMP/DEIS and Supplement fail to discuss any of the mitigation measures taken or proposed for implementation to reduce the adverse impacts to grazing and other multiple uses, on the allotments within the VPA. The Vernal Field Office has already acknowledged previous NEPA documents( e.g., Preliminary Environmental Assessment North Chipita Natural Gas Well Development Project, Uintah County, Utah, Environmental Assessment #UT-080-2003-0307V) already acknowledge that the environmental circumstances/situations on allotments in the VPA are such that oil and gas development will have long-term and permanent harmful impacts on the local environment. These long-term negative impacts will affect vegetation and rangeland health and will consequently "have a direct adverse impact on grazing within those affected allotments. The DRNIP/DEIS and Supplement should incorporate and include the NEPA documentation already done by the Vernal Field Office and address those issues.</p> <p>The Supplement fails to discuss in detail any mitigation measures taken or proposed for implementation to reduce</p>		

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		<p>the adverse impacts to grazing and other multiple uses on the allotments. Chapter 4 of the Supplement contains a section entitled "Mitigation Measures" however, this section is vague and generalizes the mitigation measures common to all Alternatives. See Supplement at 4-2t5. Specifically, this section states," [there are a number of actions proposed under all alternatives that would limit surface disturbance, focus on primitive forms of recreation, and maintain or restore vegetation condition, all of which would maintain and enhance the wilderness characteristics. . . ." Id. It goes on to state that all alternatives prohibit surface disturbance within flood plains and within 100 meters of riparian zones. Id. The alternatives prescribe burning to restore vegetation communities and advocate enhancement of wildlife habitat. Id. at 4-216. These mitigation measures along with being vague and nondescript, also assume without proper foundation that grazing is detrimental to the vegetative conditions.</p> <p>The Supplement does not describe what measures will be implemented to mitigate adverse affects to grazing and other uses on the allotments but rather generally describe measures that are supposedly designed to maintain rangeland health. The development of oil and gas has a detrimental effect on grazing activities which has not been addressed through the mitigation measures.</p> <p>In sum, the final DRMP/DEIS should contain specific discussion and analyses of mitigation measures for the impacts of an action/alternative, the feasibility of such</p>		

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				mitigation measures, the costs for such, who will bear the burdens of such costs, the adequacy of such mitigation measures, etc. Until the DRMP/DEIS makes significant changes with regard to the mitigation, it will be susceptible to legal challenge.		
Moon Ranch, LLC	B	147	1	<p>We operate a 400 cow/calf ranch that utilizes the Castle Peak Allotment for winter grazing from November 1st thru April 15th. This permit is vital to our operation and livelihood and therefore we are concerned with the long term health of the range.</p> <p>We are very alarmed that every alternative under the RPM proposes a reduction in AUMs allocated for livestock. There seems to be an obvious bias against livestock and an incorrect assumption that if livestock AUMs are reduced, that forage will improve. We strongly believe this not to be the case for the following reasons:</p> <ol style="list-style-type: none"> <li>1. Adaptability to Range Conditions. Over the past few years we have voluntarily reduced our usage to half to two thirds of our AUMs due to drought and other weather conditions. When forage is in short supply we can adjust our grazing numbers whereas the same numbers of wildlife remain there to overfeed the range on dry years.</li> <li>2. Water Improvements. We have hired equipment to clean and repair existing ponds on our permit in order to improve distribution of livestock (and wildlife). We are not aware of any wildlife agency making significant water improvements for wildlife on our allotment.</li> <li>3. Value to Our Ranch. The importance of this BLM allotment to our ranch can be stated quite simply - without it we would not be profitable. It is therefore in our self</li> </ol>	Comments noted.	

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		<p>interest to maintain and improve the long term health of the BLM land. The permit also represents a significant investment for our ranch valued around \$400 to \$600 per head. We understand that this investment can only be maintained if we take care of the range. We also know that BLM is under constant pressure from environmental groups to reduce or eliminate livestock on the BLM. We trust you will continue to commitment to multiple use and appropriately value the contributions of the rancher to our economy.</p> <p>Please consider our contributions to the range and our need for the range when you evaluate any livestock AUM reductions.</p> <p>We would like to make a few comments regarding mineral and energy development on the BLM. We recognize the importance of energy development on public lands and support it. However, we offer the following suggestions to the BLM regarding its management:</p> <p>1. Dust. We were very surprised this fall as we unloaded our cattle on the BLM to see the cloud of dust that literally covered the whole country. It appeared unhealthy to human, livestock, and even our diesel trucks. The dust is discussed in multiple places in the RMP but we don't see any remedies in the RMP or on the land. It appeared to us that a majority of the dust was caused by the high speed travel on the 2 main roads (sand wash and parietal) that cross our allotment. Some sort of dust control, at least on the main roads, should be required of the energy companies. We have already had one cow hit and killed on the range this fall. Please consider placing speed limit and livestock warning signs on the roads.</p>		

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				<p>2. Well pads &amp; Access Roads. A good portion of the well pads and roads to date have been in the flat, which is the lower forage producing area of the allotment. However, proposed well markers are moving into the higher ridge and draw areas which are the prime areas of our allotment. We encourage well placement in these areas be evaluated more carefully to minimize impacts where a majority of the forage thrives. Also, reclamation in these areas will be critical to restoring the natural range after energy production has ceased. Please ensure that the energy production companies are required to reclaim sites to original or better conditions. We believe the reclamation process will require more than one year depending on water conditions.</p> <p>3. Short-term Mitigation. In the past when well permits were issued by the BLM, companies were sometimes required to do some sort of range improvement such as pond construction or repair. This practice seems to have been discontinued and current range managers are unsure how to accomplish this. We suggest that the BLM require some range improvement commitment as a condition when the new wells are permitted. We would like to give our input and suggestions as to the location of these improvements.</p>		
Comcast	O	148	1	<p>We note that, in particular, livestock grazing is not analyzed in a range of alternatives (DEIS Chapter 2) which include No Grazing, Significantly Reduced Grazing, and No Action. This failure must be corrected to meet the intent of NEPA and in order to provide a comparison of the impacts of livestock on riparian and upland areas, water quality, soils and wildlife under proposed stocking rates as compared to conditions in the absence of</p>	<p>As required by NEPA, the RMP/EIS analyzed a range of alternatives and management actions to ensure that resources are protected and to ensure that a balanced approach was recommended that allows opportunities for legitimate land uses.</p>	

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				livestock. Otherwise, no true evaluation of the impacts of livestock grazing can be claimed. Furthermore, there are no reviews of the science relating to livestock grazing, grazing systems, sock rates, current forage consumption rates of livestock, utilization rates, or impacts of livestock grazing to justify any of the proposed alternatives. For example, Appendix 1 reviews the 50% utilization rate allowed and shows it is excessive. The RMP/EIS has failed to take a hard look at the issue of livestock grazing, instead, putting off decisions to some uncertain time in the future, while impacts. Which are massive across the Resource Area, continue. BLM has not provided for enforceable permit terms and conditions. While BLM puts off livestock decisions, it ignores that current livestock weights and forage consumption are much greater than in the past and just accounting for that added forage consumption would require a stocking rate reduction of 33% or more. Appendix 2 provides an update to the AUM analysis in Appendix 1.		
Comcast	O	148	8	Stocking rates and grazing systems must take into account the precipitation and forage production elements with proper stocking rates based on utilization rates that are sustainable. The DEIS does not present an allotment by allotment summary of current monitoring information that describes the trend or condition as compared to the existing RMP.	Appendix L provides the current Ecological Condition/Succession and the Rangeland Health Standard information by allotment.	
Comcast	O	148	9	The DEIS does not analyze or propose science based utilization standards for upland and riparian areas, stream bank stability standards or other critical livestock management mechanisms. It does not analyze different grazing systems and their requirements for rest to protect plants during critical growth periods. These are fundamental decisions that must be made at the planning level or BLM cannot claim it is managing in a sustainable	See comment LG63 DEIS	

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				manner that does not impair productivity as mandated by FLPMA.		
Comcast	O	148	6	Despite an improper capability and suitability analysis, the DEIS failed to quantify and analyze the impacts of livestock grazing within riparian/wetland areas which are critical and sensitive ecosystems within the western landscape.	The RMP adopts the Utah Rangeland Health Standards under all alternatives. These standards include specific management goals related to riparian. The BLM, by adhering to these Standards, would be managing to meet these riparian goals. See Table 2.3, page 2-53 (Riparian) of the DEIS for information on grazing in riparian zones.	
C.E. Brooks & Associates, P.C.	G	151	21	The Supplement must also consider the negative impacts on livestock operations and the related impacts on the custom, culture, and economies of Dagget County and the tri-state region. Alternative E would remove most of the range management tools from use, thus leading BLM with no option but to reduce livestock and wild horse numbers in order to address rangeland health issues. This too is not disclosed or analyzed.	See comment response LG20-18 (supplement response).	
C.E. Brooks & Associates, P.C.	G	151	22	In order to adequately consider the impacts to livestock grazing, BLM must specifically identify the allotments which would lose non-use AUMs and calculate the number of lost AUMs by allotment. In addition, BLM fails to articulate a legal or factual basis to reduce permitted use, and as written, Alternative E violates BLM grazing regulations.	As required by NEPA, the RMP/EIS analyzed a range of alternatives and management actions to ensure that resources are protected and to ensure that a balanced approach was recommended that allows opportunities for legitimate land uses.  The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and	

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					termination through revision of the land use plan.	
C.E. Brooks & Associates, P.C.	G	151	23	Furthermore, changes is permitted use may only be implemented by appeal able decision, on a case by case basis, after consultation, cooperation and coordination with the affected grazing permittee. Id. At 41110.3-3. Alternative E's unilateral elimination of grazing non-use, therefore, is illegal.	<p>The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. See comment response LG45A regarding FLPMA policy to manage the public lands on the basis of multiple use and sustained yield.</p> <p>While it is the goal of the BLM to enhance rangeland health while providing for and recognizing the need for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM to maximize the number of domestic livestock AUMs. According to section 2 of the TGA, it is the objective of the act to regulate the occupancy and use of the Grazing Districts and to preserve these lands.</p>	
C.E. Brooks & Associates, P.C.	B	159	12	BLM states that new livestock facilities can be constructed in these non-WSA areas if consistent with the goals and objectives of the protection of alleged wilderness character. Supplement at 4-34. BLM must qualify this statement with the acknowledgement that in practice, it would be virtually impossible for a livestock permittee to secure the approval of range improvement projects in these areas for the proper management of their livestock operations. This certainly has been VRLP's	<p>Comment noted.</p> <p>The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which includes changes in grazing, increases in grazing, and livestock developments, etc.</p>	

## Grazing

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				<p>experience with WSAs.</p> <p>Under standard WSA policy the construction of range improvements is rarely considered compatible with the non-impairment of wilderness character, and if they are, the projects are usually held up in litigation at considerable cost to the grazing permittee. See Committee for Idaho's High Desert, 139 IBLA 251, 255 (1997). Under the IMP, for example, temporary livestock developments are approved only if they "truly enhance wilderness values." Permanent livestock development must do the same and be substantially unnoticeable. Water developments are limited to springs where the water trough blends into the surrounding landscape as a whole. BLM Manual H-8550-1 at 41-42. The BLM WSA IMP imposes Class II VRM but Alternative E would impose the more restrictive Class I VRM management.</p> <p>Range improvements are also clearly incompatible with the VRM Class I objectives established for the non-WSA lands with alleged wilderness character. The objective of this class is to preserve the existing character of the landscape and only does not preclude very limited management activity. The level of change to the characteristic landscape must be very low and must not attract attention. BLM Handbook H-8410-1.</p>		
C.E. Brooks & Associates, P.C.	B	159	13	<p>Under NEPA, BLM needs to consider the full spectrum of the affected environment, including impacts to livestock grazing. 40 C.F.R. 1508.13, 1508.14.</p> <p>Contrary to BLM's statement that the exact locations of rangeland projects and treatments are presently unknown, Supplement, at 4-93, VRLP has planned range improvements that are critical to the effective</p>	The H-8550-1 Interim Management Policy for Wilderness Review does allow grazing under section D. Rangeland Management, which includes changes in grazing, increases in grazing, and livestock developments, etc.	

## Grazing

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		<p>management of its livestock operation and to ensure that it maintains, meets, or makes substantial progress towards meeting rangeland health standards. These projects were planned jointly with the BLM and in some cases, the Utah Division of Wildlife Resources. In many cases, the exact location of these projects has been discussed with BLM in meetings. The plans are found in grazing plans submitted to BLM or allotment management plans.</p> <p>The Supplement must consider the impacts on VRLP's livestock operation and the environment if these range improvements were not allowed to proceed. VRLP also has planned vegetation treatments with BLM, Division of Wildlife, and state lands. The Supplement needs to consider the direct, indirect, and cumulative impacts to the rangeland environment from prohibiting such treatments. Because the EIS incorrectly assumes no impact, it does not address the impacts of limiting or prohibiting improvements that will otherwise improve riparian areas and meadows, rejuvenate decadent stands of sage brush, or reduce encroachment of woody species (pinion-juniper) to benefit sage brush. In addition, VRLP would be prohibited from accessing existing range improvements by motor vehicle in order to repair and maintain them, see id. At 2-10-11, and BLM needs to identify the affected range improvements and potential impacts to the environment if these planned improvements cannot go forward. VRLP is currently pursuing additional tri-state vegetation and habitat management projects, any one of which would be prohibited or restricted under Alternative E.</p> <p>BLM's evaluation of impacts must also not be unfairly</p>		

## Grazing

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				<p>narrow. VRLP's interstate livestock operation is intricate and complex, and its effective administration depends on the maintenance of existing facilities and the successful completion of planned range improvements projects and vegetation treatments. While Alternative E's management decisions are limited to the non-WSA areas, the potential impacts are much greater and can significantly affect VRLP's Colorado and Wyoming grazing operations.</p>		
C.E. Brooks & Associates, P.C.	B	159	14	<p>Under Alternative E, a total of 77,294 Animal Unit Months (AUMs) would be allocated to livestock, a total of 106,196 AUMs would be allocated to wildlife, and a total of 3,960 AUMs would be allocated to wild horses. The number of livestock AUMs was determined by removing historic non-use AUMs (available AUMs not used over the past 10 years) from the no action alternative for the life of the management plan. Non-use by permittees would be the result of factors such as private business reasons, livestock market fluctuations, and drought conditions. This would result in an approximate 47.1% permitted reduction for livestock as compared to the no action alternative, which would have a major adverse impact on the livestock and grazing resource. Supplement at 4-31.</p> <p>In order to adequately consider the impacts to livestock grazing, BLM must specifically identify the allotments which would lose non-use AUMs and calculate the number of lost AUMs by allotment. In addition, BLM fails to articulate a legal or factual basis to reduce permitted use, and as written, Alternative E violates BLM grazing regulations.</p> <p>BLM may not adopt an across the board reduction in permitted use in the EMP. Permitted use includes non-use, 43 C.F.R. 4100.0-5, and BLM may only reduce</p>	<p>The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. See comment response LG45A regarding FLPMA policy to manage the public lands on the basis of multiple use and sustained yield.</p> <p>While it is the goal of the BLM to enhance rangeland health while providing for and recognizing the need for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM to maximize the number of domestic livestock AUMs. According to section 2 of the TGA, it is the objective of the act to regulate the occupancy and use of the Grazing Districts and to preserve these lands.</p>	

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				<p>permitted grazing use when monitoring or field observations or ecological site inventory or other data demonstrate that grazing use is causing an unacceptable level or pattern of utilization, that rangeland health standards are not being met or that use exceeds livestock carrying capacity. 43 C.F.R. 4110.3, 4110.3-2.</p> <p>Furthermore, changes in permitted use may only be implemented by appealable decision, on a case by case basis, after consultation, cooperation and coordination with the affected grazing permittee. Id. At 4110.3-3. Alternative E's unilateral elimination of grazing non-use, therefore, is illegal.</p>		
State of Utah	G	189	3	<p>For these reasons, the state is extremely concerned about the tenor and content of statements in the Supplement which assert that grazing and wildlife are not mutually beneficial, and that elimination of grazing will automatically improve rangeland health. For example, within the discussion for Forage on pages 2-5 to 2-7, BLM proposes that, in the event of a loss of forage or a demonstrated conflict between livestock and wildlife, livestock numbers would be reduced. Similarly, the discussion of impacts on pages 4-31 to 4-32 indicates that "forage production would likely increase...resulting in creased feed...and an improvement in rangeland health," through a reduction in grazing AUMs. Further, on page 4-91, the Supplement states that "grazing is a threat to all listed and most sensitive species." The state opposes the implication, contained within these statements, that wildlife are, a priori, better for the health of the range than a proper, balanced program of grazing by livestock and use by wildlife. These statements contravene the principles mentioned above.</p>	<p>Nowhere in these sections is it implied that wildlife are better for the health of the range.</p>	
Uintah County	G	190	6	<p>The "close an entire grazing allotment" standard misses</p>	<p>The commenter does not provide adequate information to</p>	

## Grazing

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		<p>the mark of House Bill 264 and is inconsistent with Uintah County Public Land Policy and Plans by a serious margin.</p>	<p>respond to “close an entire allotment”. However, in accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett, Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p>	

## Grazing

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Uintah County	G	190	7	<p>From time to time a bonafide livestock permittee in the VFO planning area, acting in good faith and not to circumvent the intent of the BLM's grazing regulations, may temporarily cease grazing operations without losing his or her permitted AUMs. It is proposed in Alternative E to transfer these AUMs to wildlife or to watersheds. This is contrary to BLM regulations that provide for non use, Utah State law, and Uintah County policy.</p>	<p>The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands “regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses”. FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management</p>	

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					options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.	
Uintah County	G	190	8	The RMP fails to articulate a legal or factual basis to reduce domestic livestock, and as written, Alternative E violates BLM grazing regulations. BLM may not implement an across the board reduction in permitted grazing use in the RMP. Permitted use includes non-use, and BLM may only reduce permitted grazing use when monitoring or field observations or ecological site inventory or other data demonstrate that grazing use is causing an unacceptable level or pattern of utilization, that rangeland health standards are not being met or that use exceeds livestock carrying capacity. Furthermore, changes in permitted use may only be effected by appealable decision after consultation, cooperation and coordination with the affected grazing permittee. 43 C.F.R. 4110.3, 4110.3-2, 4110.3-3. Alternative E's across the board elimination of grazing non-use, therefore is illegal.	The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands "regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses". FLPMA further provides in Section 202(e) the authority to issue management decisions which implement newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. See comment response LG45A regarding FLPMA policy to manage the public lands on the basis of multiple use and sustained yield. While it is the goal of the BLM to enhance rangeland health while providing for and recognizing the need for domestic sources of minerals, food, timber and fiber, there is no requirement in the Taylor Grazing Act (TGA) or other applicable law for the BLM to maximize the number of domestic livestock AUMs. According to section 2 of the TGA, it is the objective of the act to regulate the occupancy and use of the Grazing Districts and to preserve these lands.	
Uintah County	G	190	9	The RMP proposes to exclude from forage allocations all land that produces less than 25 or 32 pounds of forage per year. See DEIS 2-11. The grazing rules require that such changes be made in consultation and coordination with the individual permittee rather than unilaterally throughout the planning area. In addition, the grazing rules require consultation with the permittee before amending the permit to exclude land. 43 C.F.R. 4110.4-2	The Vernal Field Office RMP determines the allowable uses of the public lands as provided for in FLPMA. FLPMA states in section 202(a) that land use planning provides for the use of the public lands "regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses". FLPMA further provides in Section 202(e) the authority to issue management decisions which implement	

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					<p>newly developed or revised land use plans. Such decisions, including those that exclude one or more uses, are subject to reconsideration, modification and termination through revision of the land use plan. The BLM agrees that changes must be done in consultation, coordination, and cooperation with the permittee. 43 C.F.R. §4110.2-3. The BLM has merely provided criteria to use to when adjustments are required.</p>	
<p>Uintah County</p>	<p>G</p>	<p>190</p>	<p>10</p>	<p>We object to the extent the Supplement attempts to authorize the retirement of grazing permits and their reallocation to wildlife. This violates the Taylor Grazing Act, 43 U.S.C. 315, FLPMA, 43 U.S.C. 1742, and the terms of the Executive Orders No 6910, 54 I.D. 539 (1934), and No. 6964 ( Feb. 5, 1935), which withdrew public lands as chiefly valuable for grazing.</p>	<p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	
<p>Uintah County</p>	<p>G</p>	<p>190</p>	<p>11</p>	<p>By the same token, BLM cannot purport to authorize wildlife grazing by retiring grazing permits in order to allocate the forage for wildlife. This action would also</p>	<p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The</p>	

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				<p>constitute a change in grazing use without following the procedures set out in BLM grazing rules. 43 C.F.R 4110.3, 4110.4. It is also inconsistent with the grazing rules which provide for BLM to offer a vacant permit to other qualified permittees.</p>	<p>BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	
<p>Uintah County</p>	<p>G</p>	<p>190</p>	<p>12</p>	<p>Of particular concern is the proposal to transfer livestock AUMs associated with the BCCI to wildlife. This proposal is counter to provisions of Utah State law and Uintah County Public Land Policy.</p>	<p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p>	

## Grazing

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					<p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	
Utah Farm Bureau Federation	B	192	1	<p>Utah Farm Bureau is concerned where RMPS are proposing reallocation for wildlife, retirement or conservation purposes, clearly in violation of federal law (Taylor Grazing Act) and the historically stated agency position. Farm Bureau opposes the use of the planning process for the purpose of circumventing the longstanding principle "chiefly valuable for grazing" mandated in Taylor Grazing. The BLM land use planning process only provides authority to regional offices to make minor changes and temporary adjustments related to rangeland health. Furthermore, Solicitor Myers' found that the Secretary of the Interior (BLM) cannot "establish, eliminate or modify the boundaries of a grazing district without determining that the affected ground displaced from grazing is no longer chiefly valuable for grazing." The Vernal RMP or any other BLM filed office proposing transfer of livestock grazing rights for retirement, conservation or to wildlife grazing clearly violates this "chiefly valuable" doctrine.</p>	<p>Voluntary relinquishments of grazing permits and preference, in whole or in part, by a permittee in writing to the BLM will be handled on a case by case basis. The BLM will not recognize as valid, relinquishments which are conditional on specific BLM actions and BLM will not be bound by them. Relinquished permits and the associated preference will remain available for application by qualified applicants after BLM considers if such action would meet rangeland health standards and is compatible with achieving land use plan goals and objectives. Prior to re-issuance of the relinquished permit the terms and conditions may be modified to meet LUP goals and objectives and/or site specific resource objectives.</p> <p>However, upon relinquishment, BLM may determine through a site specific evaluation and associated NEPA analysis that the public lands involved are better used for other purposes. Grazing may then be discontinued on the allotment through an amendment to the existing LUP or a new LUP effort. Any decision issued concerning discontinuance of livestock grazing is not permanent and may be reconsidered and changed through future LUP amendments and updates.</p>	
Utah Farm Bureau	B	192	2	<p>FLPMA requires consistency with state and local governments. BLM must provide consistency with Utah's</p>	<p>In accordance with FLPMA, the BLM reviewed and considered the general plans of Duchesne, Daggett,</p>	

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Federation		<p>Land Use Management Plans and related statutes as well as county land use plans within the obligation of federal law. Utah House Bill 264 in 2006, passed by both houses of the Utah Legislature and signed into law by Governor Jon Huntsman codifies the state's public lands grazing policy. Please reference the following Utah State Statute and county policy [see letter] as they relate to agency consistency. State Policy for Public Lands Grazing, Utah Code 63-38d-401(6)(m).</p>	<p>Uintah, and Carbon counties during development of the management alternatives within the RMP. Where feasible, prudent, and consistent with the purpose and need of the RMP and BLM's multiple-use/sustained yield mandate, the BLM developed a range of alternatives and included them in the RMP/EIS.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law, there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p>	

## Hazardous Materials

Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
United States Environmental Protection Agency	G	6	41	Section 3.5.2.2. Hazardous Materials. Storage tanks. page 3-24: The UST program is administered by the EPA in "Indian Country".	Comment noted.	
The Wilderness Society	O	174	37	<p>The Draft RMP and the Supplement fail to address or even acknowledge the well documented and significant costs associated with off-road motorized recreation.</p> <p>Personal Safety and injury – According to the Consumer Product Safety Commission (2005), there have been 7,188 ATV-related deaths since 1982. Over 1.8 million ATV-related injuries were treated in hospitals and doctors' offices in the same time period. These deaths and injuries impose costs on society, according to Helmkamp (2002), the average annual comprehensive economic loss resulting from ATV deaths in West Virginia through the 1990's was estimated to be between \$10 million and \$34.2 million. Similar costs can be expected with off-road motorized recreation in the VPA and these costs must be estimated and included in the economic impact analysis for the RMP.</p>	Section 4.12 in the PRMP/EIS provides a revised analysis of socioeconomic impacts (including off-road motorized recreation) for the Vernal Planning area. As stated in Section 4.12, "If impacts to some aspect of the socioeconomic situation are not mentioned in the analysis, then a negligible effect should be assumed."	

## Lands and Realty

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Daggett County	G	11	13	<p>Of particular concern is the amount of land closed to oil and gas leasing for protection of wilderness character lands and ACEC's. A review of the Lands and Realty's section proposals does not list these closures to be reported as withdrawals.</p> <p>FLPMA defines a withdrawal as "withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws. ..." 43 U.S.C. § 170(j). For tracts of lands greater than 5,000 acres, the Interior Secretary must provide Congress a variety of information in order to fully disclose the closure's impacts, costs, and need so that Congress can decide whether to disapprove the withdrawal. A withdrawal also requires public notice and hearing, and consultation with state and local governments. 43 U.S.C. at § 1714(c)(1)-(12), (h); 43 C.F.R. Parts 2300, 2310.</p> <p>By a 2006 Directive from the BLM Director, BLM cannot effect a de facto closure of thousands of acres of public lands to oil and gas leasing without following FLPMA's Section 204 withdrawal procedures: "Except for Congressional withdrawals, public lands shall remain open and available for mineral exploration and development unless withdrawal or other administrative actions are clearly justified in the national interest in accordance with the Department of the Interior Land Withdrawal Manual 603 DM I, and the BLM regulations at 43 C.F.R 2310." BLM Energy and Non-Energy Mineral Policy (April 21, 2006). BLM formally adopted this policy through IM 2006-197. Consequently, the 2006 Energy and Non-Energy Mineral Policy with which BLM must comply,</p>	<p>WC-11R Non-WSA lands found either to have wilderness characteristics or likely to have wilderness characteristics will be managed according to the direction established in this land use plan. Unlike for WSAs, there is no statutory or policy directive requiring BLM to protect the wilderness characteristics of these non-WSA lands.</p> <p>These non-WSA lands have many resource values, and the draft RMP/EIS considered all available information and a range of alternative prescriptions for how the values and uses of the non-WSA lands would be managed. In Alternative B, most of the non-WSA lands are open to oil and gas leasing subject to standard terms and conditions. On the other hand, Alternative C is designed to provide maximum conservation and protection of natural resources from development and use. Under Alternative C, some non-WSA lands would be closed to leasing and most non-WSA lands would be leased subject to either minor constraints like timing limitations or controls on surface use or major constraints like no surface occupancy. Alternative D reflects existing management direction, and Alternative A (the Preferred Alternative in the draft plan) is designed to provide for a wide variety of resource needs, including mineral resource development and some level of protection of natural resources.</p>	

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				<p>conditions the closure of lands available to mineral exploration and development on FLPMA's withdrawal procedures.</p> <p>This direction is consistent with legal precedent. See Mountain States Legal Foundations v. Andrus, 499 F. Supp. 383, 392-93 (D. Wyo. 1980) (BLM could not decline to issue leases in RARE II areas without complying with §204 of FLPMA); Mountain States Legal Foundation v. Hodel, 668 F. Supp. 1466, 1474 (D. Wyo. 1987) (Forest Service violated (FLPMA when it imposed an oil and gas leasing moratorium pending completion of its land use plan). These decisions do not hold the BLM must offer public lands for mineral leasing, only that it must follow FLPMA's withdrawal and reporting procedures, when it wishes to foreclose that land use.</p>		
C.E. Brooks & Associates, P.C.	G	151	2	<p>Finally, the Supplement does not adequately address the impacts to livestock operations and rangeland resources, if Alternative E were adopted. Most livestock permissess could not reach existing range improvements by motor vehicle in order to repair and maintain them. It would be difficult if not impossible to install new range improvement structures and to institute vegetations treatments due to impacts on view and permanent structures. BLM needs to identify the affected range improvements and potential impacts to livestock operations in Daggett County.</p>	<p>Potential impacts to all resources for Alternative E, including livestock operations and rangeland resources, are described in Chapter 4.</p>	
Independent Petroleum Association of Mountain Stat	B	154	11	<p>IPAMS support the recognition in Section 4.6.2.3.2 that ROWs may be granted in WCAs for valid existing leases, but that language should be strengthened form "Therefore, ROWs might be granted through these areas, subject to valid existing leases." to "ROWs will be granted as necessary to ensure access to valid existing leases."</p>	<p>BLM accepts the wording changes.</p>	
Utah State Office of	G	169	2	<p>BLM should re-consider whether it can impose its standards on split estate lands where it does not own the</p>	<p>MLE-1R Information regarding leasing and development on split estate lands is found at the following Washington</p>	

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Education, School Land Trust				<p>surface. This action diminishes the rights of the surface owner, whether fee or trust lands, to develop their lands in the manner they see fit. So long as the operator of an oil and gas well has obtained a satisfactory surface use agreement that can be included in its Application for Permit to Drill to the BLM, BLM should not unilaterally limit mineral development.</p>	<p>Office website: <a href="http://www.blm.gov/bmp/Split_Estate.htm">www.blm.gov/bmp/Split_Estate.htm</a>.</p> <p>Instruction Memorandum No. 2003-202 outlines the policy, procedures and conditions for approving oil and gas operations on split-estate lands. In particular, the BLM will not consider and Application for Permit to Drill or a Sundry Notice administratively or technically complete until the Federal lessee or its operator certifies that an agreement with the surface owner exists, or until the lessee or its operator complies with Onshore Oil and Gas Order No. 1. Compliance with Onshore Oil and Gas Order No. 1 requires the Federal mineral lessee or its operator to enter into good-faith negotiations with the private surface owner to reach an agreement for the protection of surface resources and reclamation of the disturbed areas, or payment in lieu thereof, to compensate the surface owner for loss of crops and damages to tangible improvements, if any. In addition, the BLM will invite the surface owner to participate in the onsite inspection and will take into consideration the needs of the surface owner when reviewing the Application for Permit to Drill. The BLM will offer the surface owner the same level of surface protection BLM provides on Federal surface (Instruction Memorandum No. 89-201).</p>	
Utah State Office of Education, School Land Trust	G	169	6	<p>The beneficiaries of the school trust lands are very concerned over access to our lands. Because public land cannot be effectively administered without both legal and physical access; the BLM should refrain from locking up our school trust lands. If and when certain lands of ours must be denied access, the BLM should certainly not isolate us and devalue our land without a stated plan to make us whole.</p> <p>In other words, the settlor of the trust cannot frustrate the</p>	<p>SOC-1R The BLM's policy, as required by the Cotter decision (State of Utah v. Andrus, 10/1/79), is that "the State must be allowed access to the State school trust lands so that those lands can be developed in a manner that will provide funds for the common school . . . ." This decision confined the issue of access to situations directly involving economic revenues generated for the school trust. The recreation restrictions do not prohibit the State from reasonable access to its lands for economic purposes through separate permit authorization as specified by the</p>	

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		<p>purpose of the trust "to support the common schools." If management actions cut off access to school trust land sections, without just compensation, or provisions for exchanges within the RMP, the BLM would be in a position of taking. The takings clause of the United States Constitution prohibits this.</p> <p>It should be noted for all alternatives that, pursuant to the decision of the United States District Court of the District of Utah in Utah v. Andrus, BLM is obligated to grant reasonable access to the State of Utah and its lessees to school trust lands notwithstanding any special designation or avoidance/exclusion area for rights-of-way on intervening BLM lands. 486 F. Supp. 995 (D. Utah 1979). In furtherance of this obligation, no existing roads providing access to trust lands should be closed without the consent of SITLA.</p> <p>In STATE OF UTAH V. ANDRUS, the court held that "Given the rule of liberal construction of legislation dealing with school trust land and given the congressional intent of enabling the state to use school lands as a means of generating revenue, Congress must have intended that the state of Utah, or its lessees, have access to school lands encircled by federal land. Act of July 16, 1894, 28 Stat. 107.</p> <p>"Because it was the intent of Congress to provide school trust lands to the state of Utah so that the state could use them to raise revenue, the access rights of the state to said lands, which were encircled by federally owned land, could not be so restricted as to destroy the economic value of the school trust landsthat is, the state had to be allowed access which was not so narrowly restrictive as</p>	<p>Cotter decision. Routes to State sections may not have been identified for recreational purposes due to resource conflicts or actual route conditions.</p>	

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				<p>to render the lands incapable of their full economic development. Act July 16, 1894, 28 Stat. 107.</p> <p>"In respect to state school trust lands encircled by federal land, state lessee's right to gain access was not an existing use on October 21, 1976, the date of enactment of the Federal Land Policy and Mangement Act and therefore the lessee's activity could be reguatled so as to prevent wilderness impairment, but such regulation could not be so restrictive as to constitute a taking. Act July 16, 1894. 28 Stat. 107; Const. Utah art. 10. 3, 7; Federal Land Policy and Mangement Act of 1976, 603 (1), 43 U.S.C.A. 1711(a); Wilderness Act, 2 et seq., 16 U.S.C.A. 1131 et seq. (pg -- 998). All quotes are from STATE OF UTAH V. ANDRUS United States District, d. Utah, C.D., No. C 79-0037, C 79-0307, 486 F. Supp. 995 (1979), pg's. 995, 997, 998, 1001, 1002, 1009, 1010.</p>		
Utah State Office of Education, School Land Trust	G	169	8	<p>BLM should re-consider whether it can impose its standards on split estate lands where it does not own the surface. This action diminshes the rights of the surface owner, whether fee or trust lands, to develop their lands in the manner they see fit. So long as the operator of an oil and gas well has obtained a satisfactory surface use agreement that can be included in its Application for Permit to Drill to the BLM, BLM shouldnot unilaterally limit mineral development.</p>	<p>MLE-1R Information regarding leasing and development on split estate lands is found at the following Washington Office website: <a href="http://www.blm.gov/bmp/Split_Estate.htm">www.blm.gov/bmp/Split_Estate.htm</a>.</p> <p>Instruction Memorandum No. 2003-202 outlines the policy, procedures and conditions for approving oil and gas operations on split-estate lands. In particular, the BLM will not consider and Application for Permit to Drill or a Sundry Notice administratively or technically complete until the Federal lessee or its operator certifies that an agreement with the surface owner exists, or until the lessee or its operator complies with Onshore Oil and Gas Order No. 1. Compliance with Onshore Oil and Gas Order No. 1 requires the Federal mineral lessee or its operator to enter into good-faith negotiations with the private surface owner to reach an agreement for the protection of surface resources and reclamation of the disturbed areas, or</p>	

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					<p>payment in lieu thereof, to compensate the surface owner for loss of crops and damages to tangible improvements, if any. In addition, the BLM will invite the surface owner to participate in the onsite inspection and will take into consideration the needs of the surface owner when reviewing the Application for Permit to Drill. The BLM will offer the surface owner the same level of surface protection BLM provides on Federal surface (Instruction Memorandum No. 89-201).</p>	
Utah State Office of Education, School Land Trust	G	169	10	<p>The BLM has stated that "criteria-based land exchanged does not require identification of parcels in the RMP." (2-20) The need for BLM to give priority to state-federal land exchanges has been recognized by BLM in the BLM Manual:</p> <p>"The BLM recognizes that resolving these land ownership and management issues is an important public purpose and gives priority to the exchange of state trust lands out of areas designated by the federal government for special purposes."</p> <p>As stated on page 2-23 of the Supplement, it is being recommended that lands in special designations such as ACECs be retained in public ownership which would take approximately 1,490,000 acres in the PPA off the table as exchange possibilities for the 208,000 acres of SITLA lands within special designations, or approximately 45% of SITLA's in-holdings in the PPA.</p> <p>The BLM has an obligation to include in its planning an effective and timely means of addressing the impact of federal land actions on inheld state trust lands. Without inclusion of such a plan, the trust opposes the creation of any new special designations and would support the no-</p>	<p>Non-BLM lands could be indirectly impacted by RMP decisions both positively and negatively.</p> <p>The relevant and important values identified in the ACEC process are proposed for ACEC designation in one or more alternatives and in many cases where ACECs are not proposed for designation, these values are provided protective measures by other management actions. The management of ACECs is considered within the entire spectrum of BLM's multiple-use mandate. ACE-2R.</p> <p>Under the provisions of FLPMA, the BLM has authority to designate ACECs where special management attention is required to protect and prevent irreparable damage to important cultural, historic, scenic values, fish and wildlife resources, other natural systems or processes, or to protect life and safety from natural hazards. To be considered as a potential ACEC, an area must meet the criteria or relevance and importance, which does not include wilderness characteristics. Where ACEC values and wilderness characteristics coincide, the special management actions associated with an ACEC, if designated, may also protect "wilderness characteristics" (Washington Office Instruction Memorandum 2003-275). However, BLM policy directs that "an ACEC designation</p>	

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		action alternative (Alternative A) or the development alternative (Alternative D).	will not be used as a substitute for wilderness suitability recommendations” (BLM Manual 1613). WC-5R	

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Duchesne County Commission	G	10	11	Page 4-39, Section 4.8.2.1.5.2, Locatable Minerals: the statements in this paragraph seem inconsistent with Page 12 of the 2004 Mineral Potential Report, which blames the low level of development activity for locatable minerals on withdrawals rather than the lack of such resources in the ground.	The paragraph states that “there is moderate potential for the occurrence of locatable minerals within the VPA”. The BLM does not anticipate development activity for locatable minerals due to the large area subject to the oil shale withdrawal.	
Daggett County	G	11	11	In 2005, BLM established a policy regarding when to require compensatory mitigation. Instruction Memorandum (IM) 2005-069 Interim Offsite Compensatory Mitigation for Oil, Gas, Geothermal and Energy Rights-of-Way Authorizations (Feb. 1, 2005). The IM assumes that BLM can require onsite compensatory mitigation based on its authority in FLPMA, 43 U.S.C. §1732b (prevent undue and unnecessary degradation) and the Mineral Leasing Act (MLA), 30 U.S.C. § 226(g) (protect surface resources). Only the offsite compensatory mitigation is voluntary on the part of the oil and gas operator. The IM provides that offsite compensatory mitigation is considered only after the other forms of onsite mitigation have been applied, and must be entirely voluntary. The IM assumes, however, that BLM can require onsite compensatory mitigation.	No response required.	
Robert B. Hall	I	23	1	I appreciate that you have taken the time to analyze a sixth alternative; however, all viable alternatives within the Vernal DEIS and Supplement generally ignore timely scientific studies and do not provide adequate assurances for sustaining mule deer, Rocky Mountain bighorn sheep, pronghorn, elk, sage grouse, and wild trout. The impacts of development on big game and fisheries populations should be weighed or minimized. Leasing entails a de facto contractual obligation for development. While timing stipulations are important, they do not address how an area will be developed in order to minimize impacts on	<p>Please see Appendix K of the FEIS for surface stipulations applicable to all surface-disturbing activities. Also, please see Section 4.19.2.5 of the FEIS for the discussion of effects of mineral resource decisions on wildlife and fisheries resources.</p> <p>Section 2.4.18.1 of the FEIS states that one of its goals and objectives is to: “Maintain, restore, enhance, and protect crucial habitats for all fish and wildlife species and restore degraded habitats. Manage for unfragmented blocks of continuous habitat that would provide the life</p>	

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				wildlife habitats and populations. Upfront planning prior to leasing is a necessary component of responsible energy development.	cycle requirements of a variety of wildlife species.”  Section 2.4.18.2 of the FEIS for Actions Common to All alternatives states one of its goals and objectives is to: “Reduce habitat fragmentation by requiring oil and gas field development plans and encouraging such activities as well clustering, multiple drilling from a single pad, utilization of existing roads and pipelines, and other measures to minimize surface impacts.”	
Virginia Norris Exton	I	33	1	Finally, I would like the BLM to include stronger language in the RMP to support the use of directional drilling techniques as much as possible in order to minimize the surface disturbance of areas designated for exploration.	It is inappropriate at the RMP level to determine what oil and gas wells could be directionally drilled since the RMP is not addressing site specific locations for proposed oil and gas well development. However, in subsequently prepared development NEPA documents that are more site specific, directional drilling is an alternative considered that accounts for site specific circumstances, which includes both the subsurface and surface resources.	
FIML Natural Resources, LLC	B	138	1	The Tribe's ownership in NOSR2 is unique in that it is owned directly by the Tribe and not by the Department of the Interior in a fiduciary capacity. In 2001, approximately 83,000 acres known as the Naval Oil Shale Reserve No. 2 were deeded to the South, Ranges 18 and 19 East in Uintah County, Utah. Subsequent legislation determined that the Department of Interior approval is not required for any exploration, development or other agreement relating to NOSR2. Leases are issued directly by the Tribe and not by the Bureau of Indian Affairs. The permits to drill in NOSR2 are approved by the Tribe and not the Bureau of Land Management. The proposed decisions in the Vernal Resource Management Plan, and the Supplement thereto, are to apply only to lands and mineral estates managed by the Bureau of Land Management. Neither the Bureau of Land Management nor the Bureau of Indian Affairs is involved in either the surface or the mineral	Decisions and actions of the RMP only fully apply to BLM managed lands. In cases of split estate lands or upon lands not managed by the BLM, actions affecting the surface or minerals must be coordinated with the surface owner or mineral estate owner. Undertakings conducted on lands not wholly or partly administered by the BLM are subject to the laws, regulations, conditions, and policies of the relevant land management agency or other landowner.  The BLM has not proposed any Areas of Critical Concern upon lands within the Uintah Special Meridian.	

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		<p>estates of NOSR2. Accordingly, these lands should not be included in the either the Vernal Resource Management Plan or the Supplement.</p> <p>In Brundage, FIML and the Tribe have an oil and gas leasehold interest in lands designated Proposed Areas of Critical Concern in the Supplement in which the surface is owned by the State of Utah, Department of Wildlife Resources ("DWR"). The Tribe owns the mineral estate. Those lands are:</p> <p>Township 5 South, Range 5 West Section 18: N/2</p> <p>FIML has begun the permitting for two wells on these DWR-surface lands in Section 18, Township 5 South, Range 5 West: the State Tribal 1-18-55 and the State Tribal 3-18-55. In addition, FIML has submitted Applications to the DWR for requisite Rights-of-Ways for drill sites, roads, and gas gathering lines for these wells. Currently, FIML is operating two other wells in this Section which are on DWR surface, the State Tribal 5-18-55 and the State Tribal 7-18-55.</p> <p>Also, in Brundage, FIML and the Tribe have a contractual right to oil and gas leases in lands that are designated Proposed Areas of Critical Concern in which the surface is owned by the DWR. The Tribe owns the mineral estate. The leases should be issued by the Bureau of Indian Affairs at any time. Those lands are:</p> <p>Township 5 South, Range 4 West Section 6: S/2 Section 7: N/2</p>		

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		<p>Township 5 South, Range 5 West                      Section 1: S/2                      Section 2: S/2                      Section 3: all                      Section 10: N/2                      Section 11: N/2                      Section 12: N/2</p> <p>FIML anticipates additional drilling on lands with DWR surface for which it has an oil and gas leasehold interest.</p> <p>Finally, there are lands designated Proposed Areas of Critical Concern in which the surface is owned by the DWR, which are subject of a pending DWR Application for a Pipeline Right-of-Way. Those lands are:</p> <p>Township 5 South, Range 4 West                      Section 6: S/2                      Section 7: N/2, SW/4</p> <p>Township 5 South, Range 5 West                      Section 10: S/2                      Section 11: S/2                      Section 12: all</p> <p>In the last two years, we have successfully worked with the DWR. As indicated above, FIML has drilled and now operates two wells on DWR surface. In addition, FIML has constructed a road over DWR lands. These projects were completed and are being operated while accommodating the interests of the DWR. It is our position that FIML and the Tribe should be able to continue to develop their respective mineral leasehold interests under the DWR surface and to negotiate rights-</p>		

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				of-way with the DWR as in the past and that these lands should be excluded from designation as Proposed Areas of Critical Concern.		
EOG Resources, Inc.	B	144	2	<p>SUWA v. Norton Decision</p> <p>After the U.S. District Court of Utah decision in SUWA v. Norton, 457 F. supp. 2d 1253 (D. Utah 2006) (appeals pending 06-4251 &amp; 07-4223), BLM thought it necessary to further supplement the RMP based on the court's decision. In SUWA v. Norton, the court found that BLM had failed to adequately address information from the 1996-99 wilderness inventory in its NEPA documents. The court did not fault BLM's analysis in the Vernal DPMP, but merely found that the previous RMPs in the Vernal and Richfield offices failed to take into account the wilderness inventories from 1996-99.</p> <p>The 2004 Vernal Field Office DRMP/EIS originally included four alternatives for managing public lands and their resources. In this EIS, Alternative C provided protections for non-WSA lands with wilderness characteristics and specifically analyzed the impacts of oil and gas on these lands. Vernal DEIS-Figure 13 (Oil and Gas Lease-Alt. C). Now, BLM has supplemented it's DRMP/EIS to further analyze non-WSA lands that allegedly contain wilderness characteristics. In its analysis, it treats WSA and non-WSA lands the same and provides for management of these lands to maximize protection of their wilderness values.</p> <p style="text-align: center;">COMMENTS</p> <p>1. Desolation Canyon WCA.</p>	Comment noted.	

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		<p>Large portions of the Desolation Canyon WCA overlap valid existing federal and state oil and gas leases, as well as other valid existing rights such as grazing allotments. EOG urges BLM not to impose any restrictions upon minerals activity that fall within these areas. These lands already contain extensive human imprints such as roads, wells, pipelines, and associated infrastructure and do not provide opportunities for enjoyment of naturalness, solitude, or primitive and unconfined recreation.</p> <p>Wild Horse Ranch Road, which forms one boundary of Desolation Canyon WIA Unit 1 and Kings Canyon and Hydes Bench roads, which were evaluated as cherry stem routes within Unit 1, have been upgraded from two-track to two lane oilfield standard roads by blading and other maintenance in recent years. These roads are extensively used by oilfield traffic for development activities and surface pipelines have been installed adjacent to the roads in some areas. Low, rolling topography and absence of trees or other visual obstructions result in distant visibility of oilfield activities. The presence of adjacent uncontested federal and state oil lease suggests that local oilfield development activities will continue.</p> <p>EOG provides the following comments on two specific areas within or near the Desolation Canyon WCA: the North Alger area and the Kings Canyon area. Both of these areas contain recently documented development and extensive valid existing rights.</p> <p>a. North Alger Area</p>		

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		<p>The North Alger area consists of those sections within EOG's North Alger project area boundary. The entire North Alger Project are consists of approximately 2,400 acres located in T10S-R19E and T11S-R19E in Uintah County, Utah and contains extensive existing development and related infrastructure. Generally, this area includes Section 27, west half Section 28, east half of the northeast quarter Section 33m Sections 34 and 35 all, T10S-R19E; and west half of the northwest quarter of Section 1, T11S-R19E.</p> <p>Most recently, in 2007, during the process of preparing a supplement of the Vernal Draft RMP, BLM re-evaluated the wilderness characteristics of the greater Desolation Canyon Area. BLM found that the area east of Kings Canyon Road - which encompasses EOG's North Alger Project area - does not contain wilderness characteristics. Vernal Draft RMP Supplement at 3-3. EOG supports this finding.</p> <p>To further support BLM's 2007 finding, enclosed is a map under Tab A detailing the extensive existing human imprints within and surrounding the North Alger Project area. The information reflected in this map underscores that this area does not meet the requisite criteria for wilderness characteristics. This map depicts a combination of aerial over flight pictures from 2006, as well as digital depiction of additional roads and imprints constructed since 2006. The map shows extensive roads, two-tracks, and well pads within and surrounding the portion of the North Alger Project area that SUWA claims has wilderness characteristics.</p> <p>In addition to showing extensive imprints within the</p>		

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		<p>Project Area, this map shows that the immediate surround area contains several roads that traverse through the lands SUWA claims to have wilderness characteristics.</p> <p style="padding-left: 40px;">Existing Development and Human Imprints.</p> <p>As of November 2007, a total of approximately 138 acres of the North Alger Projects area contain oil and gas development, including:</p> <ul style="list-style-type: none"> <li>35 producing natural gas wells and their associate facilities.</li> <li>2 plugged and abandoned well locations.</li> <li>Approximately 18 miles of roads and pipelines.</li> </ul> <p>Because topography in the North Alger Project area is relatively level, exhibiting low gradient slopes typically ranging between 2 to 5 percent, well facilities are visible throughout the Project area. Although the western portion of the Project area contains Kings Canyon, an incised, ephemeral drainage, views to the west of the canyon also display well development activity.</p> <p>In addition, an estimated 395 wells have been drilled on 40-acre surface densities within 3 miles of the North Alger Project area, primarily to the northeast and southeast. As described above, oil and gas activity is also occurring to the south and west such that exploration and development can, at times, be seen in virtually all directions.</p> <p>In sun, given the existing infrastructure, valid existing leases and other permitted uses that fall within the North Alger area, EOG supports BLM's finding that this area</p>		

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		<p>does not contain wilderness characteristics.</p> <p>b. Kings Canyon Area</p> <p>The Kings Canyon area consists generally of sections within T22S-R19E. This area is located in Unit 1 of the 1999 Desolation Canyon wilderness inventory area. Attached under Tab B is a technical report that details substantial human imprints, such as pipelines and roads, that exist within this area. These human imprints, combined with the extensive overlapping valid existing rights within this are, underscore that this area does not contain wilderness characteristics in sufficient form to warrant protection through imposition of restrictive management proscriptions.</p> <p>Kings Canyon Road is an improved, crowned, ditched, graveled, Class D road that travels through Section 33, T10S-R19E, and Sections 4, 8, 9, 17, 20, and 29, T11S-R19E, providing access to the area to the uplands to the west of Kings Canyon. Kings Canyon Road is a maintained road used by oil and gas operators for well access and is at least 7 miles long. Uintah County holds a single right-of-way (ROW) for Kings Canyon Road, as well as road 181401A and road 181401B, located west of the North Alger Project area.</p> <p>County road 181401A is a Class D road located in Section 4, T11S-R19E. Country road 181401B is a Class D road that runs from Kings Canyon Road easterly through Section 4 into Section 3, T11S-R19E. Uintah County allows the use of its ROWs for pipeline construction adjacent to the roadway within its ROW. Aboveground pipelines and associated equipment,</p>		

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		<p>including a pigging station, valves, and a meter house have been installed along some segments adjacent to Kings Canyon Road. Approximately 9,730 feet of Uintah County Class D roads are located in Section 3 and 4, T11S-R19E.</p> <p>Other roads are located in Section 32 and 33, T10S-R19E, and south of the North Alger Project area in T11S-R19E. A newly constructed unclassified but maintained oilfield road travels generally west-to-east through the S/2 Section 10 south of North Alger. This road is approximately 4,737 feet long within Section 10 alone, is graveled, and installed with culverts where it crosses the upper reaches of Kings Canyon in the S/2 Section 10.</p> <p>Also, natural gas exploration and development activities have occurred on existing Stat of Utah leases in Section 32 in T10S-R19E and Sections 2 and 17 in T11S-R19E, which falls within this "wilderness characteristics" area. Seven producing gas wells had been drilled in Section 2 and one in Section 17, of T11S-R19E. Oil and gas development, including drilling rigs, trailers, tanks, and roads are visible from topographic high points in Sections 3, 4, and 10, and Section 17 to the south-southwest of North Alger in T11S-R19E.</p> <p>Farther to the south, oil and gas development to the north has resulted in frequent use of Wild Horse Ranch Road by oilfield vehicular traffic. The road also provides access for recreationists and grazing activities. A number of dry stock ponds and cairns believed to have been placed by sheepherders were visible. Recreational camping use of the area, particularly in areas of dramatic vistas, is indicated by fire pits. The road also provides</p>		

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		<p>access for recreationists and grazing activities.</p> <p>Visual and noise impacts from oilfield activity have affected wilderness values of naturalness, solitude, and opportunities for remote and unconfined recreation in Section 20 and 21, T11S-R19E. Activities associated with construction and operation of natural gas wells and associated facilities have resulted in the production of substantial volumes of noise. Sound levels diminish with distance. The presence of intervening structures, topography, or vegetation can dramatically reduce the range at which loud sounds can be perceived. Within the study area, the absence of such buffers that generated sounds are likely to be perceived at long distances.</p> <p>In conclusion, given the existing infrastructure, valid existing leases and other permitted used that fall within this portion of the WCA, EOG supports a finding by BLM that the EOG's Kings Canyon area of interest does not contain wilderness characteristics that warrant protection under restrictive management proscriptions.</p> <p>c. Greater Kings Canyon Area</p> <p>In order to place the above discussion into context, it is important to review and take into account the extensive human imprints and valid existing rights that are found in the surrounding greater Kings Canyon area.</p> <p>The greater Kings Canyon area is comprised of portions of T10S-R18E (sections 12-15, 20-29, and 32-36), T10S-R19E (sections 4-9, 18-20, 25-26), T11S-R19E (sections 2-11, 15-21, 29-32) and T11S-R18E (sections 1-2, 13-16, 21-26, 35-36). Approximately 23,630 acres of</p>		

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		<p>lands within this area have been determined by BLM to contain wilderness characteristics.</p> <p>Human Imprints. As of November 2007, a total of approximately 505 acres of the Kings Canyon area within the Desolation Canyon WCA contain oil and gas development, including:</p> <p>83 producing natural gas wells and their associate facilities.</p> <p>46 abandoned well locations.</p> <p>Approximately 32 miles of roads.</p> <p>Approximately 32 miles of surface pipelines; and,</p> <p>approximately 82 miles of travel ways, which consist of routes with no regular maintenance or continuous use.</p> <p>Valid Existing Rights. The greater Kings Canyon area also contains 20 valid existing (uncontested) federal oil and gas leases, as well as 11 suspended federal leases. This area also contains 7 State of Utah oil and gas leases located wholly or partly within the WCA boundary comprising 2,436 acres. This area is also overlapped by portions of 7 grazing allotments (Lower Showalter, Wildhorse Bench, Green River, Little Desert, Green River Bottoms, Bull Canyon, and Wetlands).</p> <p>In conclusion, given the existing infrastructures, valid existing leases and other permitted used that fall within this portion of the WCA, EOG supports a finding by BLM that the greater Kings Canyon region does not contain</p>		

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				wilderness characteristics that warrant protection under restrictive management proscription.		
EOG Resources, Inc.	B	144	6	<p>Withdrawing 5,000 acres or Closing 100,000 Acres of Federal Lands to Oil and Gas Leasing Triggers Additional FLPMA Requirements</p> <p>In the event Alternative E is selected, then over 900,000 acres of federal lands would be closed to oil and gas leasing and development. Therefore, the Department of the Interior would be required to comply with FLPMA's formal withdrawal requirements. FLPMA requires the Secretary of the Interior to provide notice of proposed withdrawal of 5,000 acres or more of federal land from minerals development in the Federal Register and conduct hearings regarding the withdrawal. 43 U.S.C. 1714(b)(l) &amp; (h).</p> <p>Also, Section 202(e)(2) of FLPMA requires the Secretary of the Interior to report to Congress decisions on principle uses of lands in areas greater than 100,000 acres in aggregate. 43 U.S.C. 1712. FLPMA then empowers Congress to review BLM's decision. In the even BLM decides to close 100,000 acres or more to minerals activity in the Final Vernal RMP, then such a decision would automatically trigger this Congressional reporting and review provision</p>	<p>Comment noted. The lands closed to leasing are not proposed to be withdrawn. Therefore the Department of the Interior would not be required to follow the FLPMA process noted in the comment. If the FEIS contains a decision to withdraw lands from mineral entry that are 5,000 acres or more in size, then the process noted would have to be followed.</p> <p>Comment noted. Section 202(e)(2) of FLPMA states "Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate." Thus, the requirement is not upon an aggregate of 100,000 acres or more, but upon a single tract of 100,000 acres or more.</p>	
EOG Resources, Inc.	B	144	12	<p>Valid Existing Rights.</p> <p>Many of the WCAs overlap valid existing federal and state oil and gas leases. Under FLPMA, the valid existing rights and obligations conferred to EOG from the Department of the Interior under these federal leases are not pre-empted, or otherwise excused, by BLM's consideration of potential future WCA and/or ACEC</p>	<p>A planning criteria adopted in the Proposed RMP/Final EIS states: "All decisions made in the RMP and subsequent implementation decisions will be subject to valid existing rights."</p> <p>The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the</p>	

## Minerals and Energy

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		<p>designation for portions of these leased areas. With respect to WCAs, industry holds many leases that were issued prior to enactment of FLPMA. Thus, industry has valid existing rights to continue to access and develop these leases. In addition, BLM cannot preclude industry access to these leases when industry is required to traverse unleased lands with wilderness characteristics in order to get to its leases.</p> <p>FLPMA states that "[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights." 43 U.S.C. 1701 NOTE (h). 43 C.F.R. 1610.5-3 (b); see also CEC, 165 IBLA at 227 (explaining that "FLPMA expressly provides that '[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights,'" (citing 43 U.S.C. 1701 note (h) (2000)). Thus, operators with pre-FLPMA leases have valid existing rights to develop these leases regardless of the current or future land use designations that may be imposed upon this area. Even if these leases were located in properly designated Wilderness Study Areas (WSA), holders of pre-FLPMA leases have the right to drill these wells.</p> <p>Federal courts and the IBLA has consistently held that operators may develop their leases within WSAs if BLM issued their leases prior to the enactment of FLPMA. See, e.g., Colorado Environmental Coalition v. Bureau of Land Management, 932, F. Supp. 1247, 1251 (D. Colo. 1996) ("those who held existing leases when FLPMA was enacted are exempt from the standard in 603( c) that requires management of such leases in such a way as not to impair suitability for preservation as wilderness." (citing CEC, 135 IBLA 359)); Colorado Environmental</p>	<p>human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public. Public participation was essential in this process and full consideration was given to all potential alternatives identified.</p> <p>The BLM determined that a single alternative analyzing the protection of all Non-WSA lands with wilderness characteristics would best provide a reasoned choice among the alternatives. Although the other alternatives do not provide specific management prescriptions to protect Non-WSA, these alternatives analyze and disclose the impacts of the proposed resource management prescriptions, uses and actions on the Non-WSA lands with wilderness characteristics. This gives the public the ability to fully compare the consequences of protecting or not protecting the wilderness characteristics on these Non-WSA lands. If all alternatives contained comparable protections of the Non-WSA lands with wilderness characteristics, the alternatives would have substantially similar consequences and would not be significantly distinguishable.</p> <p>The BLM, in developing the PRMP/FEIS, can chose management actions from within the range of the alternatives presented in the DRMP/DEIS and create a management plan that is effective in addressing the current conditions in the planning area based on FLPMA's multiple-use mandate.</p>	

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				<p>Coalition, 135 IBLA 356, 359-360 (1996); SUWA, 100 IBLA 63 (1987); Utah Wilderness Coalition, 91 IBLA 124, 125, 130 (1986).</p> <p>In sum, Alternative E is not a viable alternative for BLM to adopt in the Final Decision Record given the extensive valid existing rights that exist in almost all WCAs for active mining claims, grazing allotments, county road designations, and federal and state oil and gas leases. This non-biablity is particularly true for the portions of the Desolation Canyon WCA discussed above. Accordingly, in BLM's Final Decision Record it should make a finding that these particular areas are no longer WCAs.</p>		
EOG Resources, Inc.	B	144	18	<p>Withdrawing 5,000 acres or Closing 100,000 Acres of Federal Lands to Oil and Gas Leasing Triggers Additional FLPMA Requirements</p> <p>In the event Alternative E is selected, then over 250,000 acres of federal lands would be closed to oil and gas leasing and development. FLPMA defines the term "withdrawal" as:</p> <p>"withholding an area of Federal land from settlement, sale, location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program."</p> <p>43 U.S.C 1702(j).</p> <p>Accordingly, closing such a large amount of land to entry for oil and gas leasing, exploration, and development in favor of preserving these lands for</p>	See previous comment response to MIN 144-12.	

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				<p>wilderness characteristics would meet the broad definition of withdrawal under FLPMA. Therefore, the Department of the Interior would be required to comply with FLPMA's formal withdrawal requirements. FLPMA requires the Secretary of the Interior to provide notice of proposed withdrawal of 5,000 acres or more of federal land from minerals development in the Federal Register and conduct hearings regarding the withdrawal. 43 U.S.C. 1714(b)(1) &amp; (h)</p> <p>Also, Section 202(e)(2) of FLPMA requires the Secretary of the Interior to report to Congress decisions on principle uses of lands in areas greater than 100,000 acres in aggregate. 43 U.S.C. 1712. FLPMA then empowers Congress to review BLM's decision. In the event BLM decides to close 100,000 acres or more to minerals activity in the Final Vernal RMP, then such a decision would automatically trigger this Congressional reporting and review provision.</p>		
Ute Tribe-Energy & Minerals Department	G	172	3	<p>As discussed in Section 4.21.2.3 - Impacts of Lands and Realty Management Decisions on Non-WSA Lands with Wilderness Characteristics (see pg. 4-153), under Alternative E, non-WSA lands with wilderness characteristics would be managed as ROW exclusion areas. Exclusion from future ROW development would protect the natural character of the landscape of all the non-WSA lands with wilderness characteristics.</p> <p>The Tribe recognizes that the BLM is encouraged to preserve land in its natural condition. The Tribe also recognizes that a parcel of land cannot be preserved in its natural character and mined at the same time. However, case law supports the Tribe's claimed right of access. In fact, without access the Tribe could not develop its</p>	The BLM does provide for reasonable access to all non-BLM managed lands under all alternatives. Information will be added to Chapter 2, Lands and Realty, Management Common to all action alternatives, that states that reasonable access to non-BLM managed land would be provided including across BLM lands within avoidance and exclusion areas for rights-of-way.	X

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				<p>minerals in any fashion and they would become economically ineffectual.</p> <p>Based upon this information, the Tribe requests that the BLM consider adding the following information to the Vernal Supplemental RMP.</p> <p>Where necessary, the BLM would grant reasonable access across Federal lands with wilderness characteristics to provide for development of adjacent Tribal lands and minerals.</p> <p>Where necessary, the BLM would grant reasonable access to Federal lands with wilderness characteristics to provide for development of Tribal/Indian Allotted minerals, which are held in split estate (i.e., Tribal minerals and Federal surface with wilderness characteristics areas).</p>		
Uintah County	G	190	4	<p>The document states that "Alternative E would provide the least amount of oil and gas related jobs compared to other action alternatives and slightly more compared to Alternative D -- No Action." One must assume this is based on the estimated number of wells for each alternative. Although this may be correct, it does not accurately reflect the impact of management prescriptions proposed in Alternative E. The addition of wells to be drilled on Indian Trust surface and the addition of lands available for oil and gas leasing in the Diamond Mountain area to the RFD prevents realistic comparison of other alternatives to Alternative D. It should be clear that the proposal to close wilderness characteristic areas to oil and gas leasing will drastically reduce future wells under Alternative E when you compare like acres.</p>	Comment noted.	

## Leasable Minerals, Other Than Oil and Gas

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Bjork Lindley Little PC	B	176	2	Under Alternative E, the BLM proposes to close 277,596 acres of public lands that are not wilderness study areas (WSAs), but that allegedly have wilderness characteristics, to oil and gas leasing. Because the BLM inappropriately relied on outdated information to determine which non-WSA areas allegedly have "wilderness character", the BLM must reevaluate this information before basing management decisions on it.	A BLM ID Team did reevaluate this information in 2007 prior to the release of the Supplement.	
Utah State Office of Education, School Land Trust	G	169	7	<p>We are concerned about the cutting off of access and how it devalues in-held school land. For the BLM not to develop oil &amp; gas in its sections also makes it impractical for development to occur on ours, which amounts to an unconstitutional taking. This is true where there are known resource, and may become true for areas in which no drilling has occurred. Alternative E would directly harm us in this area because "about 187,000 acres of State of Utah lands could be rendered uneconomic to lease because they would be surrounded by unleaseable federal lands." (4-31) This includes about 19,200 acres with coal resources that are currently unleased, which would be eliminated from further consideration for coal leasing.</p> <p>If the BLM decides that large areas of its land are off limits for drilling, that can effectively prevent feasible drilling on our in-held sections, amounting to a taking of the mineral value of our subsurface resources.</p> <p>The BLM should consider whether it will allow directional drilling from leases on school sections to access oil and gas lands on BLM property, with no surface occupancy of the BLM property. The BLM has stated "Oil and gas development in these areas would require directional</p>	<p>The BLM does provide for reasonable access to all SITLA lands under all alternatives. Information will be added to Chapter 2, Lands and Realty, Management Common to all action alternatives, that states that reasonable access to State land would be provided including across BLM lands within avoidance and exclusion areas for rights-of-way as specified by the Cotter decision (Utah v. Andrus, 10/1/79).</p> <p>(From Universal Comment response LAR-5R)</p>	X

Leasable Minerals, Other Than Oil and Gas						
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				drilling to extract hydrocarbon resources." (4-48). Analysis should be made on how feasible this would be, and what proportion of the resources could be reached in this way.		
Theodore Roosevelt Conservation Partnership	O	1	3	<p>Geographically Phased Development: The Vernal FO should consider geographically-phased energy development prior to leasing stage to responsibly balance the needs of fish and wildlife with natural gas excavation. Large geographic areas to be offered for oil and gas leasing first should be subdivided into smaller parcels to be leased-each with the necessary crucial habitats and migration corridors to maintain fish and wildlife populations and the ecological function of the area. The parcels should be developed fully and completely restored (with respect to fish and wildlife habitat) one at a time before subsequent parcels are developed.</p> <p>For geographically phasing to be effective in reducing adverse impacts on wildlife populations, the species-specific life stage habitat requirements must be known for the impact area so that all life-stage requirements are provided for; even in the face of parcel subdivision and development.</p>	Comment noted. This issue is outside the scope of the FEIS.	
Theodore Roosevelt Conservation Partnership	O	1	5	<p>Mitigation Plan:</p> <p>Given the nature of leasing and the need for upfront comprehensive planning, it needs to be known during the RMP process how the Vernal FO will establish plans for mitigation, including detailed fish and wildlife monitoring and the use of adaptive management strategies to prevent, minimize or mitigate impacts of oil and/or gas exploration and development for future parcels offered for leasing. It needs to be known what the BLM will do to ensure that the areas that are developed get restored so</p>	<p>See comment response WL-2 .</p> <p>The Vernal Field Office will establish plans for mitigation, including detailed fish and wildlife monitoring and the use of adaptive management strategies to prevent, minimize or mitigate impacts of oil and/or gas exploration and development for future parcels offered for leasing during the site specific NEPA stage for each proposed lease parcel.</p>	

Leasable Minerals, Other Than Oil and Gas						
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				that they can be hunted again during the lifetime of Utah hunters and anglers. Under the current practice of leasing prior to planning, the Vernal FO is sacrificing their ability to adequately plan energy development and accomplish the mitigation tactics of avoiding, minimizing, and reducing impacts on the public's fish and wildlife habitat.		
Theodore Roosevelt Conservation Partnership	O	1	6	<p>Multiple Use Management:</p> <p>The BLM should detail in the Vernal RMP how public lands proposed for leasing and development within the Vernal resource area will be managed for a balance of uses, as required by FLPMA. FLPMA sets for a multiple use mandate [The Organic Act for the BLM] that federal agencies must not ignore. With regards to energy development in the Vernal FO, this means that the BLM must consider effects on outdoor recreation and the conservation of fish and wildlife species and habitat, notably mule deer, elk, desert and Rocky Mountain bighorn sheep, pronghorn, Colorado Cutthroat Trout, and sage-grouse in determining appropriate natural gas extraction management.</p>	<p>Chapter 4 of the FEIS clearly details the environmental consequences of the management actions proposed under each of the alternatives, including wildlife and fisheries resources (see Section 4.19).</p> <p>Under FLPMA's multiple-use mandate, the BLM manages many different resource values and uses on public lands. Through land use planning, BLM sets goals and objectives for each of those values and uses, and prescribes actions to accomplish those objectives. Under the multiple-use concept, the BLM does not necessarily manage every value and use on every acre, but routinely manages many different values and uses on the same areas of public lands.</p> <p>The BLM strives to ensure that the goals and objectives of each program (representing resource values and uses) are consistent and compatible for a particular land area. Inconsistent goals and objectives can lead to resource conflicts, failure to achieve the desired outcomes of a land use plan, and litigation. Whether or not a particular form of management is restrictive depends upon a personal interest or desire to see that public lands are managed in a particular manner. Not all uses and values can be provided for on every acre. That is why land use plans are developed through a public and interdisciplinary process. The interdisciplinary process helps ensure that all resource</p>	

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					<p>values and uses are considered to determine what mix of values and uses is responsive to the issues identified for resolution in the land use plan.</p> <p>FLPMA directs BLM to manage public lands for multiple use and sustained yield (Section 102(a)(7)). As a multiple-use agency, the BLM is required to implement laws, regulations, and policies for many different and often competing land uses and to resolve conflicts and prescribe land uses through its land use plans. The BLM's Land Use Planning Handbook requires that specific decisions be made for each resource and use (See Appendix C, Land Use Planning Handbook, H-1601-1). Specific decisions must be included in each of the alternatives analyzed during development of the land use plan. As each alternative is formulated, each program decision is overlaid with other program decisions and inconsistent decisions are identified and modified so that ultimately a compatible mix of uses and management prescriptions result.</p> <p>Furthermore, the BLM coordinates with Utah Division of Wildlife Resources (UDWR) in the management of this habitat to help ensure that UDWR wildlife management goals are being addressed. This coordination includes determination on the appropriate big game herd numbers to ensure that forage meets Rangeland Health Standards and forage production for livestock is not decreased. See Chapter 2 Management Common to All, section 2.4.18.1.</p>	
Public Lands Advocacy	O	170	3	While the SDEIS states valid existing lease rights would be honored, it fails to discuss how the agency would ensure access to the 36,000 acres of lands currently under lease but included in lands slated for withdrawal from leasing. Access to these leases would be needed in order for them to be developed despite the fact the	Valid existing rights are considered Administrative Actions by the BLM and do not require a specific planning decision to implement. As noted in the BLM's Land Use Planning Manual (Section 1601.06G), all decisions made in land use plans and subsequent implementation decision are subject to valid existing rights. The BLM will work with and subject	

## Leasable Minerals, Other Than Oil and Gas

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				<p>surrounding lands would be closed to leasing and development. BLM needs to specify how it would manage these lands with respect to valid existing rights.</p> <p>We find no acknowledgement in the DEIS of valid existing rights associated with RS 2477 rights-of-way claimed by the State of Utah. R.S. 2477 was a Homestead-era federal law in place from 1866 until 1976. It states that "the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted." States and local governments throughout the western United States used R.S. 2477 to construct the roads that are the foundation of the transportation infrastructure in many states. The statute allowed local governments to acquire a property interest in roads and other public highways they constructed across unreserved federal land. PLA understands that a Memorandum of Understanding (MOU) was agreed upon between the Department of Interior and the State of Utah that established a process to resolve many of the longstanding disputes over R.S. 2477 rights-of-way in Utah. We recommend that BLM acknowledge the MOU and carefully consider these valid existing rights in preparation of the final EIS and proposed RMP for the Vernal Field Office.</p>	<p>to the agreement of holders of valid existing rights to modify proposed actions or activities to reduce the effect of the actions or activities on resource values and uses.</p> <p>Revised Statute (RS) 2477 assertions will be addressed with current policy and not in this RMP. Please see Section 1.4.1.2 Step 2: Development of Planning Criteria.</p>	
Utah Rock Art Research Association	O	186	11	We are concerned that oil and gas development on the plateaus above the cliffs or in the valley adjacent to the deep wash would both damage and increase accessibility to these important sites.	The quality of the viewshed is considered in the process of individual well placement. The BLM has designated viewsheds that restrict placement of well locations on plateaus and near critical ravines.	

## Locatable Minerals

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United States Environmental Protection Agency	G	6	28	Section 2.4.8.2.2. Locatable Minerals. page 2-20: The document notes that a plan of operation would need to be filed for operations n any lands or water known to contain federally proposed or listed threatened o endangered species or their proposed or designated critical habitat. BLM should specify whether this approval process solicits comments from the public or other agencies.	Please see response to Draft Comment ME221.	

## Minerals, Oil and Gas

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Theodore Roosevelt Conservation Partnership	O	1	2	The Vernal DEIS fails to adequately address oil and gas development and how it can be conducted in a way that does not unnecessarily impact fish and wildlife in their habitats.	Please see Appendix K of the FEIS for surface stipulations applicable to all surface-disturbing activities. Also, please see Section 4.19.2.5 of the FEIS for the discussion of effects of mineral resource decisions on wildlife and fisheries resources.	
Theodore Roosevelt Conservation Partnership	O	1	4	<p>Upfront Commitment of Funds for Management, Monitoring and Restoration:</p> <p>The DEIS fails to provide a commitment to adequate funding of wildlife management, monitoring, and restoration for oil and gas development projects.</p> <p>Funding appropriated for fish and wildlife management should be used to proactively manage habitats and populations, not just mitigate damage, process energy permits or plan for energy projects.</p> <p>Included with increases in funding should be provisions for ongoing, intensive monitoring of fish and wildlife species and their habitats to facilitate alternations in development if unintended adverse impacts occur.</p>	<p>One of the assumptions identified in Section 4.1.1 of the FEIS states that: "The BLM would have the funding and work force to implement the selected alternative." Implicit in this assumption is that the BLM will seek and obtain funding for implementation and mitigation of the selected alternative.</p> <p>Section 4.1.1 further states that: "All decisions, projects, activities, and mitigation for the alternatives would be completed as described in Chapter 2 and Appendix K (Surface Stipulations Applicable to all Surface Disturbing Activities).</p>	
Theodore Roosevelt Conservation Partnership	O	1	7	All alternatives should retain sufficient management discretion for BLM to permit development of the gas resource without improperly committing itself to wholesale conversion of the area from lands containing wildlife habitat, rangeland, watershed, and energy resources into a single-use industrialized zone effectively committed to natural gas extraction to the exclusion of most other uses. Given the lack of upfront planning within the DEIS, it is concerning to us that the draft RMP is on track to such single-use zones.	<p>Section 2.4.18.1 of the FEIS states that one of its goals and objectives is to: "Maintain, restore, enhance, and protect crucial habitats for all fish and wildlife species and restore degraded habitats. Manage for unfragmented blocks of continuous habitat that would provide the life cycle requirements of a variety of wildlife species."</p> <p>Section 2.4.18.2 of the FEIS for Actions Common to All alternatives states one of its goals and objectives is to: "Reduce habitat fragmentation by requiring oil and gas field development plans and encouraging such activities as sell clustering, multiple drilling from a single pad, utilization</p>	

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					of existing roads and pipelines, and other measures to minimize surface impacts."	
United States Environmental Protection Agency	G	6	27	Section 2.4.8.2.1, Minerals and Energy Resources, Actions Common to All, Oil and Gas page2 -20: The first sentence is, "Mitigation of oil and gas impacts developed under the plan and applied to leases in the form of stipulations would adhere to the BLM's standard format". These stipulations regard the minimum necessary to protect resources and also include BLM criteria for waiver or modification if warranted. The Final EIS could identify under what conditions and consequences in the past have received BLM waiver from these lease stipulations.	Comment noted. A waiver may be approved if the record shows that circumstances or relative resource values have changed or that the lessee/operator can demonstrate that operations can be conducted without causing unacceptable impacts. Appendix K discloses whether or not a waiver to a lease stipulation would be considered, and if so, under what conditions.	
Duchesne County Commission	G	10	10	<p>Page 4-36, Section 4.8.2.1.5, this section should mention the amount of acreage in the non-WSA lands with wilderness characteristics that has already been leased (129,468 acres according to Page 4-220). This data gives the reader a more accurate indication of how Alternative E would impact energy and mineral resources. Alternative E, which proposes a 2% decrease in the amount of land available for energy development, is inconsistent with the Duchesne County land use plan, which contains policies stating that:</p> <p>"Access to public lands for mineral development must be increased in the economic interest of the county citizens and government."</p> <p>"Development of the solid, fluid, and gaseous mineral resources of the state should be encouraged."</p>	<p>Table 4.22.1 lists each non-WSA land with wilderness characteristics and provides the number of acres already leased by alternative.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not</p>	

## Minerals, Oil and Gas

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					bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.	
Duchesne County Commission	G	10	14	Page 4-43, Section 4.8.2.8.2, management under Alternative E predicts a total of 6,117 oil, gas and CBM wells, which appears in Table 4.12.1. However, this section (and Section 4.10.2.4.5) indicates that this is a 4% increase compared to 5,856 wells under Alternative D. Actually, Table 4.12.1 shows a predicted 6,331 wells under Alternative D, making Alternative E management result in a decrease of 214 wells or a 3.4% decrease (see Table 4.12.1). It is Duchesne County's position that such a decrease would violate the county land use plan and EPCA.	Table 4.12.1 in the DRMP was inaccurate in the number of well potential by alternative. The FEIS will be corrected to reflect the correct numbers.  Alternatives A, B, C, and E all reflect a greater well potential than Alternative D due to the proposed availability of lands within the Hill Creek Extension for leasing, which is not the case in Alternative D.	X
Duchesne County Commission	G	10	20	Pages 4-66, 4-67, Section 4.12.3.2.5: The analysis in this Section 4.13.2.4.5 (Page 4-73) seems to be flawed in that it presumes Alternative E would increase the number of oil, gas and CBM wells when compared to Alternative D, when actually Alternative E would result in 214 fewer wells according to Table 4.12.1 (6,331 wells in Alternative D versus 6,117 under Alternative E).	See comment response 10-O-14.	X
Duchesne County Commission	G	10	23	Page 4-73, Section 4.13.2.4.5: The figure 1,499,461 acres open for leasing under Alternative E appears to be inconsistent with the acreage figure given in Table 4.12.1 (1,547,090 acres).	The figures are not inconsistent. The 1,547,090 acreage figure given in Table 4.12.1 and also discussed on page 4-66 of the Supplement is acreage within the planning area open to oil and gas leasing subject to standard, timing and controlled surface use, or NSO stipulations. The 1,499,461 acreage figure given on page 4-73 of the Supplement is acreage within the planning area open to oil and gas leasing subject to standard or timing and controlled surface use stipulations (did not include NSO	

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					areas).	
Duchesne County Commission	G	10	45	Pages 4-166 to Page 4-178, Table 4.21.1: Change heading "Oil & as Development Potential" to "Oil & Gas Development Potential".	The FEIS will reflect this correction.	X
EOG Resources, Inc.	B	144	13	<p>EOG's non-federal lease holdings in the Kings Canyon area include Section 32, T10S-R19E and Section 32, T11S-R19E, both of which are partially bordered by areas determined by the BLM to exhibit wilderness characteristics. Access to each of these sections through areas not determined to have wilderness character may not be possible because of topographic features that preclude road construction or the nearby boundary of the Uintah and Ouray Reservation boundary.</p> <p>Implementation of the restrictions associated with Alternative E could unreasonably restrict EOG from accessing the non-federal leases described above, and/or possibly other non-federal leases that lie within the administrative boundary of the Vernal FO. The proposed restrictions include precluding the issuance of rights-of ways (ROWs) in areas determined to have wilderness characteristics. BLM cannot preclude EOG's right of access to its leases.</p> <p>The BLM must not indirectly disallow to its leases by the imposition of a designation that would exclude the issuance of ROWs. By possibly disallowing access to valid leases, the BLM selection of Alternative E would constitute an indirect taking and breach of EOG's lease terms.</p>	The BLM does provide for reasonable access to all SITLA lands under all alternatives. Information will be added to Chapter 2, Lands and Realty, Management Common to all action alternatives, that states that reasonable access to State land would be provided including across BLM lands within avoidance and exclusion areas for rights-of-way as specified by the Cotter decision (Utah v. Andrus, 10/1/79).	X
The Wilderness Society	O	174	20	The Supplement frequently states that implementing Alternative E would have adverse impacts on the oil and gas industry. This is simply not the case. Since Alternative E makes more land available to the oil and	The commenter fails to provide the information supporting their claim that Alt. E makes more acreage available for leasing than the No Action alternative. From the DEIS, page 4-100, the No Action alternative	

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Individual / Organization	Commenter Type, Record ID, & Comment Number			Comment Text	Response to Comment	Doc Mod
				gas industry than the No Action Alternative it represents a net gain to the industry and should be assessed as such.	<p>would allow oil and gas leasing upon 1, 672,960 acres within the planning area (under standard, timing and controlled surface use, or NSO stipulation). The No Action alternative does not include approximately 188,500 acres of Federal mineral estate within the Hill Creek Extension.</p> <p>From the Supplement, page 4-66, Alternative E would allow oil and gas leasing upon 1,547,090 acres within the planning area (under standard, timing and controlled surface use, or NSO stipulation). This is 125,870 acres less than the No Action alternative, plus the acreage available for leasing in Alt. E includes the 188,500 acres of Federal mineral estate within the Hill Creek Extension as well.</p>	
The Wilderness Society	O	174	21	The Supplement states that "...mineral development would be substantially limited under Alternative E." Supplement, p. 4-69. This statement is inaccurate and misleading. Over 81% of the Vernal Planning Area is open to additional oil and gas leasing under Alternative E, and 45% of the non-WSA lands with wilderness characteristics are already leased.	The statement is not inaccurate or misleading as it is referring to impacts to natural resource development associated with Alternative E.	
The Wilderness Society	O	174	22	The analysis of the impacts to the oil and gas industry, often excludes the acres under no surface occupancy stipulations from the total area available to industry. This has the effect of inflating the perceived opportunity cost of protecting lands with wilderness characteristics. These lands can be accessed through directional drilling and should be considered part of the total being made available to industry.	Comment noted.	
The Wilderness Society	O	174	23	Protection of the multiple use values of surface resources can be achieved simultaneously with oil and gas extraction in some cases, by imposing no surface occupancy stipulations on certain areas. The oil and gas resources can be accessed from off-site using directional	It is inappropriate at the RMP level to determine what oil and gas wells could be directionally drilled since the RMP is not addressing site specific locations for proposed oil and gas well development. However, in subsequently prepared development NEPA documents that are more	

## Minerals, Oil and Gas

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				drilling. Former scientist, Ken Kreckel has noted that directional drilling technology has evolved to the point that it is certainly economically viable in the current market and should be required by the BLM to protect surface resources as a part of responsible multiple use management. See the attached report, Directional Drilling: The Key to the Smart Growth of Oil and Gas Development in the Rocky Mountain Region, for details on his analysis and conclusions.	site specific, directional drilling is an alternative considered that accounts for site specific circumstances, which includes both the subsurface and surface resources.	
The Wilderness Society	O	174	72	In accordance with IM 2007-176, the Vernal RMP should provide for any and all new routes associated with oil and gas development to be classified as temporary routes, such that written authorization is required for new route construction and such authorization requires construction not to exceed minimum standards necessary, reclamation, and measures to prevent public access.	Comment noted. All new construction is required to have an authorization prior to commencement of surface disturbing activities. In the case of oil and gas development, when a well is plugged and abandoned, the BLM will work with the operator to reclaim the disturbed lands.	
Bjork Lindley Little PC	B	176	1	In the Federal Land Policy and Management Act of 1976 (FLPMA), Congress designated mineral exploration and production a principal or major use of the federal public lands. Oil and gas leasing and development on the public lands plays an important role in local and national economies. Royalties and severance taxes provide vital revenues to federal, state, and local governments, and jobs generated by oil and gas development boost local economies.	The Federal Land Policy and Management Act (FLPMA) requires that BLM manage the public lands for Multiple Use. Section 103(c) of FLPMA defines Multiple Use as follows: "The term 'multiple use' means . . . harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output." Additionally, given that the implementation schedule for the RMP will vary in the future based on national priorities, available workforce, and funding, etc., there is no way to meaningfully evaluate costs and benefits of the alternatives. Therefore, a cost-benefit analysis is not central to the planning effort and is not required for consideration of multiple-use planning alternatives.	

## Minerals, Oil and Gas

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			(From Universal Comment response PRP-2R)	

## Other

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United States Environmental Protection Agency	G	6	25	Section 2.3.2.6. Surface Stipulation Applicable to All Surface-Disturbing Activities: We believe there is a typographical error, and this should be Appendix K, not Appendix L. Appendix L contains information related to the Vernal Resource Area grazing allotments.	The error has been corrected in the Proposed RMP/Final EIS.	X
Duchesne County Commission	G	10	2	Page 2-7, Table 2.3, Lands and Realty, bottom sentence: "An easement for the old Uintah Railroad bed from the Utah/Colorado line to Watson in Evacuation Creek would no be pursued.	The typographical error has been corrected in the Proposed RMP/Final EIS.	X
Duchesne County Commission	G	10	3	Page 2-10, Table 2.3, Recreation: Seep Ridge, Book Cliff Divide, and Atchee Ridge Roads would not be designed as Back Country Byways.	The typographical error has been corrected in the Proposed RMP/Final EIS.	X
Duchesne County Commission	G	10	5	Page 4-10, Section 4.3.2.3.6, 2nd sentence: "Alternatives A, C, and E are likely to have the greatest beneficial impacts, because all three involve....".	The language has been changed in the Proposed RMP/Final EIS.	X
Duchesne County Commission	G	10	24	Page 4-74, Section 4.13.2.6.5 (Alternative E should be singular). In the last sentence of this section, "These alternatives should be changed to "this alternative".	The language has been changed in the Proposed RMP/Final EIS.	X
Duchesne County Commission	G	10	37	Page 4-122, Section 4.18.2.3.3: The acronym "HA" (which means Herd Area), is not listed in the list of acronyms included in the RMP.	The acronym has been included in the list of acronyms in the Proposed RMP/Final EIS.	X
Duchesne County Commission	G	10	56	Page 4-203, Section 4.21.2.10.6, 1st sentence: "Alternative" should be plural.	The typographical error has been corrected in the Proposed RMP/Final EIS.	X
Duchesne County Commission	G	10	57	Page 4-208, Section 4.21.2.11.6: "150,001 acre" should be plural.	The typographical error has been corrected in the Proposed RMP/Final EIS.	X
Duchesne County Commission	G	10	58	Page 4-213, Section 4.21.2.14.2: 1st line: ...would be managed by the following prescriptions: 12th bullet: Construction of wildlife watering facilities.	The language has been changed in the Proposed RMP/Final EIS.	X
C.E. Brooks &	B	159	1	Because the proposed decisions in Alternative E that	These issues have already been addressed with the DEIS	

**Other**

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Associates, P.C.				<p>apply to the lands outside of the non-WSA areas with alleged wilderness characteristics remain exactly the same as those in Alternative C, VRLP hereby incorporates by reference the detailed DRMP/DEIS comments if filed with BLM in June, 2005, the cover letter sent to Jerry Kenzcka, and the comments prepared by Wayne Burkhardt, Ph.D. of Ranges West. For your convenience, VRLP is resubmitting the Kenzcka letter which summarizes the major concerns and legal issues presented by Alternative C.</p>	<p>and are reflected in the PRMP EIS.</p>	

## Paleontology

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Utah Rock Art Research Association	O	186	8	Second, a set of dinosaur footprints are located on the underside of a cliff in a draw on the same plateau. The location of these tracks should not be publicly available and vehicle access routes should be closed.	Dinosaur footprints are considered scientifically significant resource and fall under Class 5a with the PFYC system and are to be protected. The BLM does not release to the public significant fossil localities.	

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United States Environmental Protection Agency	G	6	18	Section 1.4.6. Step 9: Monitoring and Evaluation. page 1-3: The document notes that monitoring and evaluation of the revised RMP will follow a schedule documented through plan supplements, amendments, or addenda. BLM needs to provide in the Final EIS the proposed schedule for the monitoring and evaluation process. For example, the use of thresholds values of natural resource conditions could be considered so that if a threshold is reached, this would trigger a change in management or require remedial actions. For ambient air and water quality monitoring especially that across state lines and within "Indian Country" EPA could provide technical assistance.	Comment noted.	
Sweetwater Country Conservation District	G	9	12	<p>Judge Kimball's NEPA Decision Misinterpreted: BLM incorrectly concludes that it had to prepare the RMP supplement to conform with the decision of the U.S. District Court for the District of Utah in SUWA v. Norton, 457 F. Supp,2d 1253, 1267 (D. Ut. 2006) (Kimball decision). Supplement at 1-2. Judge Kimball did not hold that BLM had an obligation to protect non-WSA areas identified by BLM as possessing alleged wilderness characteristics.</p> <p>Instead the court only held that National Environmental Policy Act (NEPA) documents supporting a sale of oil and gas leases failed to address the impact on alleged wilderness values. This issue was raised by SUWA in scoping and other public comments. NEPA requires an agency to address every potentially significant issue. 40 C.F.R. 1402.14(f); 1506.3. The BLM NEPA documents assessing the impacts of selling oil and gas leases did not, in large part, because they pre-dated the 1999 wilderness inventory report. As to BLM's duty to prevent</p>	<p>The BLM's authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712).</p> <p>This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c)(2) (43 U.S.C. §1712(c)(2))) Further, FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land, and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c))) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including</p>	

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		<p>uninformed decision-making under NEPA, the court held that BLM cannot rely on "outdated planning documents to argue that {the 199 wilderness re-inventory findings and other significant new information pertaining to wilderness} values were previously identified or that the impacts of oil and gas development on them were previously evaluated." Id. At 1265.</p> <p>Thus, to the extent the Supplement undertakes the necessary analysis to determine what "the environmental effects of leasing and development will be to specific wilderness values," the DEIS complies with Judge Kimball's decision. Id. Nowhere, however, did the court suggest that BLM must under NEPA and FLPMA requires BLM to adopt protective WSA-type management for these areas. Rather, in doing so, Alternative E violates the terms f BLM's 2003 Settlement Agreement in State of Utah v. Norton, 2:96-CV-0870, 2006 WL 211798 (D. Utah 2006) (appeal pending), and is not a viable alternative. BLM may consider an alternative outside the agency's jurisdiction or for which legislation is required but must disclose that fact. 40 C.F.R. 1502.14©. As BLM acknowledge in 2003 and the Secretary of Interior in 1996, BLM's authority to create WSAs expired. If an agency lacks legal authority, it cannot pursue the unauthorized action under a new name.</p>	<p>wilderness character management, amongst the various resources in a way that provides uses for current and future generations.</p> <p>The BLM has long acknowledged that FLPMA Section 603 (43 U.S.C. §1782) requiring a one-time wilderness review has expired. All current inventory of public lands is authorized by FLPMA Section 201 (43 U.S.C. §1711). In September 2006, the Utah District Court affirmed that the BLM retained authority to protect lands it determined to have wilderness characteristics in a manner substantially similar to the manner in which such lands are protected as WSAs.</p> <p>The BLM is aware that there are specific State laws relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, BLM is bound by Federal law. As a consequence, there may be inconsistencies that cannot be reconciled. The FLPMA requires that BLM's land use plans be consistent with State and local plans "to the extent practical" where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved. The BLM will identify these conflicts in the FEIS/PRMP so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options.</p> <p>Finally, the Utah v. Norton Settlement Agreement does not affect BLM's authority to manage public lands. This Agreement merely remedied confusion by distinguishing between wilderness study areas established under FLPMA §603 and those lands required to be managed under §603's non-impairment standard, and other lands that fall</p>	

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					within the discretionary FLMPA §202 land management process.	
Daggett County	G	11	2	<p>Managing the Subject Lands Under Alternative E Would Clash With State and Local Policies and Plans for Managing Those Lands, and Would Thus Violate the Consistency Requirement of FLPMA Section 202©(9).</p> <p>The BLM is mandated by FLPMA at 43 U.S.C. 1712©(9) as follows:</p> <p>Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.</p> <p>The proposed Alternative E is inconsistent with Utah Law and with Daggett County's General Plan.</p> <p>State Public Lands Policies</p> <p>The State of Utah's policy and plan for managing BLM lands is substantially set forth in Utah Code 63-38d-401(6), (7) and (8). It is self evident that the management prescriptions and restrictions in the proposed Alternative E are not inconsistent with the standards and policies set forth in this State statutory provision. There is no way for the BLM to reconcile these sharp inconsistencies; in other words, there is no way for the BLM to adopt Alternative E for the Subject Lands and meet its legal obligations of consistency under FLPMA Section 202 (c)(9).</p> <p>Daggett County's Policies Specific to the Subject Lands</p> <p>Several months ago, the Daggett County Planning</p>	<p>See comment response 9-G-12.</p> <p>The BLM is aware that there are specific County and State plan decisions relevant to aspects of public land management that are discrete from, and independent of, Federal law. However, the BLM is bound by Federal law. The FLPMA requires that the development of an RMP for public lands must be coordinated and consistent with County plans, to the maximum extent possible by law, and inconsistencies between Federal and non-Federal government plans be resolve to the extent practical (FLPMA, Title II Sec. 202 (c)(9)). As a consequence, where State and local plans conflict with Federal law there will be an inconsistency that cannot be resolved or reconciled.</p> <p>Thus, while County and Federal planning processes, under FLPMA, are required to be as integrated and consistent as practical, the Federal agency planning process is not bound by or subject to County plans, planning processes, or planning stipulations. The BLM will identify these conflicts in the FEIS/PRMP, so that the State and local governments have a complete understanding of the impacts of the PRMP on State and local management options. A consistency review of the PRMP with the State and County Master Plans is included in Chapter 5.</p>	

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				<p>Commission and the Daggett County Commission duly approved amendments to the Daggett County General Plan to clarify Daggett County's policies for managing each of the Subject Land Areas that are now the subject of the Supplement. A copy of those plan amendments with a cover letter were sent to the BLM Vernal Field Office after they were adopted. Those plan amendments for each of the Subject Lands are incorporated herein by reference, and for your addition reference copies of those plan amendments (Exhibit B) are enclosed with this letter.</p> <p>Those County plan amendments are consistent with the above-mentions State Law and Policies for managing public lands. Under those plan amendments for the Subject Lands, it is clear that the proposed Alternative E standard for managing those Subject Lands are not consistent with Daggett County's plans and policies for managing the Subject Lands.</p> <p>In short, Daggett County's General Plan sets forth management specific plans that are directly and specifically applicable to each of the Subject Lands. Thus in accordance with FLPMA Section 202 (c)(9), Daggett County respectfully calls upon BLM to follow FLPMA by conforming its plan for managing the Subject Lands to Daggett County's plan for managing the Subject Lands. A first step toward meeting this statutory obligation is for the BLM to not adopt Alternative E for the Subject Lands. This same request also applies to the Alternative C for the Subject Lands, which is equally inconsistent with Daggett County's plan for managing the Subject Lands.</p>		
Daggett County	G	11	12	Alternative E proposes to close various areas to oil and gas development, mining, grazing, OHV use, etc. These are changes in use on areas of a size that requires	Comment noted.	

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				notification to Congress.		
Questar	B	140	1	<p>Questar has become increasingly concerned recently with attempts made via the NEPA process to impose new restrictions on existing legal rights, e.g., leases, rights-of-way, previous Records of Decision, etc. Questar regards this as a serious legal issue. LEPMA states that "[a]ll actions by the Secretary concerned under this Act shall be subject to valid existing rights." 43 U.S.C. 1701 note (h), 43 C.E.R. 1610.5-3(b). Questar has a vested interest in the decisions made by the BLM for the planning area that affect existing and future leasing, and exploration and development activities. The BLM needs to recognize the importance of allowing reasonable access to oil and gas reserves.</p> <p>Recommendation: Ensure that VFO continues to recognize valid existing rights and provide reasonable access.</p>	A planning criteria adopted in the Proposed RMP/Final EIS states: "All decisions made in the RMP and subsequent implementation decisions will be subject to valid existing rights."	
Questar	B	140	2	<p><b>Restrictions on Development</b>                      The Supplement to the DRMP/EIS contains many restrictions on oil and gas development. Questar finds the restrictions in Alternative E to be excessive and in conflict with the Energy Policy Conservation Act of 2000 and Executive Order 13211 which require identification of and efforts to eliminate impediments to natural gas and oil development. Alternative E will result in the following:</p> <ul style="list-style-type: none"> <li>-22% of the total federal acres (1,697,039 acres) would be closed to leasing</li> <li>-43% of the total federal acres would be available for leasing but with CSU or NSO restrictions</li> <li>-A 598% increase in the number of acres withdrawn from leasing over the No Action Alternative (Alternative D)</li> <li>-A 591% increase in the number of acres managed as Visual Resource Management (VRM) Class I over the No</li> </ul>	Valid existing rights are considered Administrative Actions by the BLM and do not require a specific planning decision to implement. As noted in Chapter 1 under Planning Criteria and as outlined in the BLM's Land Use Planning Manual (Section 1601.06G), all decisions made in land use plans and subsequent implementation decision are subject to valid existing rights. The BLM will work with and subject to the agreement of holders of valid existing rights to modify proposed actions or activities to reduce the effect of the actions or activities on resource values and uses. These modifications may be necessary to maintain the choice of alternatives being considered during land use plan development and implementation, and may include appropriate stipulations, relocations, redesigns, or delay of proposed actions. The CEQ regulations (40 CFR 1502.1) require BLM to consider reasonable alternatives, which	

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		<p>Action Alternative.</p> <ul style="list-style-type: none"> <li>-Even if the existing Wilderness Study Areas are released from wilderness consideration and management by Congress, under Alternative E, these areas would still be managed with the same restrictions applied to non-WSA lands with wilderness characteristics.</li> <li>-45% of the non-WSA lands with wilderness characteristics are already leased for oil and gas development. These areas would be ROW exclusion areas: however, the SDRMP/DEIS explains that ROWs might be granted through these areas to reach valid existing leases (pg 4-30), but also indicates these lands would be "closed to new road construction." (Pg. 4-111).</li> </ul> <p>Alternative E results in serve and unacceptable adverse impacts on the ability of the oil and gas industry to develop the mineral resource within the VFO planning area and is not consistent with BLM's directive to manage public lands for multiple use. There is insufficient explanation of the rationale for the stringent stipulations within non-WSA lands with wilderness characteristics resulting in the loss of additional acreage available for oil and gas development and compliance with governing energy policies.</p> <p>The SDRMP/DEIS rather disingenuously boasts that Alternative E will result in an increase in commercially available supply of oil and natural gas, an increase in the number of wells drilled, and a beneficial long-term effect on state and local revenue over the No Action Alternative (pgs 4-37, 4-66). These benefits appear to be due to the fact that under Alternative E, 188,500 acres in the Hill Creek Extension will be available for leasing which were not envisioned under the 1985 RMP. We assume the Hill</p>	<p>would avoid or minimize adverse impacts or enhance the quality of the human environment, based on the nature of the proposal and facts in the case (CEQ 40 Most Asked Questions 1b.). While there are many possible management prescriptions or actions, the BLM used the scoping process to determine a reasonable range alternatives that best addressed the issues, concerns, and alternatives identified by the public.</p> <p>An Interdisciplinary team of resource specialist, with on-the-ground knowledge of the planning area, analyzed the current management situation, desired conditions, the uses and activities to create a framework to resolve the issues raised through the development of the alternatives. A balanced approach consistent with FLPMA's principles of "multiple use" was a key component of the analysis.</p> <p>The FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, Section 103(c) (43 U.S.C. §1702(c)).) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including energy and mineral development, as well as conserving and protecting other resource values for current and future generations.</p> <p>The DRMP/DEIS contains alternatives which strike an appropriate balance between environmental protection and development of the mineral resources on our public lands consistent with the requirements of the Mining and Mineral</p>	

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				<p>Creek Extension would also be available for leasing under Alternative B,C, and D. BLM's failure to mention this additional charge when comparing Alternative E with the No Action Alternative is not in the spirit of full public disclosure.</p> <p>Also included in Alternative E is a proposal to re-establish the Bonanza Wild Horse Herd Management Area. Under Alternative A and B, this Wild Horse Management Area would be officially removed. This area has been mostly unpopulated and re-establishing the horse management area would further limit oil and gas development. (2-19 and 4-125)</p> <p>Recommendation: BLM must ensure that its decisions comply with the Energy Policy Act (EPA 2005), the Energy Policy and Conservation Act (EPCA 2000), the National Energy Policy (NEP), and Executive Order 13212, (66 Fed. Reg. 28357 May 18, 2001) and reduce rather than increase impediments to federal oil and gas leasing. Under FLMPA, BLM is required to manage public lands under the principles of multiple use and sustained yield to meet the needs of present and future generations. 43 U.S.C. 1701(a)(7),(8) &amp; (12); 43 U.S.C. 1732(a) &amp; (b); 43 C.F.R. 1610.5-3. FLMPA identifies "mineral exploration and production" as one of the "principle or major uses" of public lands. See 43 U.S.C. 1702(1). The removal of expansive acreage from leasing and development in the VFO does not comply with BLM objectives and FLMPA directives.</p>	<p>law and FLPMA. The PRMP/FEIS will offer BLM management the flexibility to protect resource values and uses while allowing for acceptable levels of mineral development.</p>	
Capital Trail Vehicle Association (CTVA)	O	142	14	<p>The number of NEPA actions at any moment that we would have to evaluate and comment on in order to be involved would total 150 to 180. Recently the route designation process has added considerably to the effort</p>	<p>The BLM provided the public with 90 days to review and comment on the DRMP/DEIS, as required by the BLM land use planning regulations (43 CFR 1610.2(e)). The standard comment period for a DEIS is 45 days in</p>	

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				<p>required. It it simply impossible for the public to comment on every road, trail, and NEPA document.</p> <p>The 300 page draft environmental document is just too much for the general public to understand and participate in. The size of the environmental document is being used as a mechanism to overwhelm the public and allow the agency to effectively ignore the needs of the public for motorized access and motorized recreation.</p>	<p>accordance with CEQ regulations at 40 CFR 1506.10(c). Per CEQ regulations, the BLM planning and NEPA processes are integrated. Therefore, the BLM provided a 90-day comment period doubling the amount of time for the public to review and comment on the DRMP/DEIS. The BLM made the DRMP/DEIS available, free of charge to the public, in a variety of mediums, including paper, CD, and online. In addition, the BLM staff has offered to meet individually with groups or individuals to explain the DRMP/DEIS and help focus review and comment efforts.</p>	
EOG Resources, Inc.	B	144	16	<p>The Supplement to the Vernal DEIS/RMP Lacks an Adequate Analysis of Socio-Economic Impacts.</p> <p>BLM has not accurately detailed the negative impact that the Desolation Canyon WCA, or other WCAs in the Vernal Resource Area, would have on development of oil and gas resources or the related negative impact upon Utah and local economies.</p> <p>BLM defined "wilderness characteristics" as lands that contain an outstanding opportunity for primitive and unconfined recreation. BLM, however, in establishing which lands possess wilderness characterizes, fails to analyze or include in its determinations how much, if any, actual recreation occurs on these lands. Thus, Alternative R contains insufficient analysis of actual recreation use of these lands for primitive and unconfined recreation and the socio-economic impacts of protecting these lands solely for their "wilderness" values. See Vernal DRMP/EIS Supp. At 3-1---3-5; 4-53----4-48. BLM fails to provide a thorough analysis of the negative economic impacts from protecting all WCAs for their wilderness values. Id. BLM does not include quantifiable economic benefits that would result of selection of</p>	<p>Section 4.12 in the PRMP/EIS provides a revised analysis of socioeconomic impacts for the Vernal Planning area.</p>	

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		<p>Alternative E.</p> <p>In the event BLM chooses Alternative E, or components of Alternative E, in the Final Decision Record for the Final RMP, then Sections 4.8 and 4.10 of the Vernal DRMP/DIES Supp. Should include this analysis. Recreational users must be present to be adversely affected by oil and gas development. EOG recognizes that river floating on the Green River is popular, but other types of primitive and unconfined recreation outside of these rivers in the WCAs is very low. Thus, BLM should quantify, in number of recreational days, the use of the WCAs to justify its economic analysis of protecting lands with wilderness characteristics.</p> <p>Mineral development plays a large role in the local economic growth and opportunity for Emery and Carbon Counties. Alternative E fails to account for the economic impacts from the restrictions that would be placed on mineral development. These impacts include tax revenues, employment, energy price and royalty payments. BLM should consider the economic impact of restricting oil and gas development on lands that allegedly contain wilderness characteristics before making it's final decision on this RMP.</p> <p>Moreover, oil and gas development has significant impact at all economic scales. Given the extensive oil and gas resources available, development, or lack thereof, in the Vernal Resource Area will literally have a national impact. Natural gas is an extremely inelastic commodity and a small change in supply yields a large change in the price paid by families and industry. The decisions made by the BLM for this Resource Area will</p>		

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				<p>directly affect every family in the country. Research conducted by Energy ad Environmentally Analysis, an energy research firm that is respected by both energy suppliers and conservation organizations, indicated that a one percent change in nation supply causes a 20 percent change in the wholesale price of the commodity. The additional supply provided by timely development of oil and gas resources in the Vernal Resource Area would have an impact of hundreds of millions of dollars a year.</p> <p>In the event BLM adopts Alternative E, or components of Alternative E in the Final Decision Record and Final RMP, the BLM must quantify the reduction in economic gain and other impacts that are associated with restrictions imposed for WCAs. Positive impacts will be realized at the local level through employment and spending for goods and services necessary for development. Production taxes, royalties and leasing bonus and rentals are realized at the Federal, state, and county level. BLM must also consider the impact that planning decisions have on the commodity price at a national level.</p>		
C.E. Brooks & Associates, P.C.	G	151	1	<p>Furthermore, the Supplement does not conform to law because (1) BLM misinterprets decisions of the united States District Court for the District of Utah, (2) establishes an unviable alternative which applies unlawful de facto WSA-type management prescriptions in violations of its 2003 Settlement Agreement with the State of Utah et al., (3) incorrectly states that livestock grazing is consistent with WSA-type management, and (4) improperly eliminates grazing non-use without following established grazing procedures and standards. BLM, therefore, should not select any portion of Alternative E.</p>	Comment noted.	
C.E. Brooks &	G	151	5	<p>Thus, to the extent the Supplement undertakes the</p>	See comment response 9-G-12.	

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Associates, P.C.				necessary analysis to determine what "the environmental effects of leasing and development will be to specific wilderness values," the DIES complies with Judge Kimball's decision. Id. Nowhere, however, did the court suggest that BLM must under NEPA and FLPMA requires BLM to adopt protective WSA-type management for these areas. Rather, in doing so, Alternative E violates the terms of BLM's 2003 Settlement Agreement in State of Utah v. Norton, 2:96-CV-0870, 2006 WL 211798 (D. Utah 2006) (appear pending), and is not a viable alternative. BLM may consider an alternative outside the agency's jurisdiction or for which legislation is required but must disclose that fact. 40 C.F.R. Section 1502.14(c). As BLM acknowledged in 2003 and the Secretary of Interior in 1996, BLM's authority to create WSAs expired. If an agency lacks legal authority, it cannot pursue the unauthorized action under a new name.		
C.E. Brooks & Associates, P.C.	G	151	8	Alternative E's protection of the non-WSA areas as if they were WSAs, therefore, violates the Settlement and proper interpretation of FLPMA agreed to by BLM. As the supreme court has emphasized, NEPA does not obligate an agency to examine actions or effects of actions that are beyond the agency's authority. Dept. of Transport v. Public Citizen, 541 U.S. 752 (2004). Thus, the defacto WSA designation of these areas is not an alternative available to BML and cannot be considered an option in BLM's land use planning. This does not preclude BLM from developing the Supplement to provide a detailed evaluation and analysis of the impacts of its management decisions on wilderness values. Any consideration, however, needs to also disclose that BLM cannot adopt the alternative without new legislation and without violating the Settlement Agreement.	See comment response 9-G-12.	
C.E. Brooks &	G	151	9	BLM claims it has authority to consider Alternative E	See comment response 9-G-12.	

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Associates, P.C.		<p>based on a general provision in its Land Use Planning Handbook which directs BLM to "[I]dentify decisions to protect or preserve wilderness characteristics." H-1601-1. Supplement at 1-2 (citing BLM Handbook H-1601-1). The direction is taken from an expired Instruction Memorandum 2003-275 which allegedly implemented the terms of the Settlement: "Wilderness characteristics are features associated with the concept of wilderness that may be considered in land use planning," and lands with wilderness characteristics "may be managed to protect and/or preserve some or all of those characteristics." This may include protection certain lands in their natural condition and/or providing opportunities for solitude, or primitive unconfined types of recreation. IM 2003-275 at 2.</p> <p>This does not mean that BLM can use the land planning process to impose a wilderness land use allocation for these areas similar to the management of WSAs. The district court expressly affirmed the Settlement in this respect:</p> <p>It make no sense that the same Congress that jealously recognized its sole authority to declare wilderness and that set up two major laws (the Wilderness Act and FLPMA) to accomplish a properly considered exercise of that authority, would have created within one general section (section 202) of FLPMA an open-ended authority on the part of the executive branch of government to create WSAs which, once created, result in de facto wilderness.</p> <p>Norton, 2:96-CV-0870 at 29.5.</p> <p>Rather, through the land use planning process, BLM may consider all available information, including assessments of wilderness character, "to determine the mix of resource use and protection that best serves the FLPMA multiple</p>		

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				use mandate." BLM IM 2003-274.		
C.E. Brooks & Associates, P.C.	G	151	14	With regard to Lower Flaming Gorge, formerly known as the Diamond Mountain Inventory Unit, BLM concluded that the area is broken and irregular in shape, bounded and intersected by privately-owned lands, and that man's impact is substantially noticeable in the northern part of the unit.	Comment noted.	
C.E. Brooks & Associates, P.C.	G	151	16	The record does not show that these developments and intrusions have disappeared. In most cases, there are more, rather than less, permanent structures and evidence of development. Instead BLM appears to have ignored the definition of wilderness when finding there was wilderness character.	Comment noted.	
C.E. Brooks & Associates, P.C.	G	151	18	In 1996, when BLM first initiated the wilderness reinventory, there was no public involvement. This was also true for the 2001 internal review of the "new information" submitted by SUWA and UWC. BLM assured the U.S. Tenth Circuit Court of Appeals that if it later decided to consider revising land use plans to change the management of lands included in the inventory, full public participation rights would be afforded. State of Utah et al. v. Babbitt et al., 137 F.3d 1193, 1209 (10th Cir. 1998). The court specifically held that a claim to set aside a land use plan revision would lie if public participation was denied, including a challenge to the results of the inventory if the results are utilized in proposing a revision to a land use plan. Id.	<p>The Draft RMP presented four alternatives for managing the public lands and resources analyzed the effects of each management approach. None of these alternatives addressed management to protect all non-WSA lands with wilderness characteristics. The Supplement analyzed a fifth alternative which emphasizes protection of all non-WSA lands with wilderness characteristics and analyzes the effects of that management. The Supplement to the RMP has provided the public and opportunity to participate the in the planning process with a 90-day comment period.</p> <p>The BLM has followed the land use planning process and has involved the public throughout. The public participation process is outlined in Chapter 5 of the DRMP/DEIS. The public was afforded many opportunities for involvement. The BLM acknowledges that the planning process is complex requiring participants to look in many locations within the document to get the answers to questions they may have. This is why the BLM regulations require a 90-day a public comment period rather than the normal 45-day period for an Environmental Impact</p>	

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Independent Petroleum Association of Mountain Stat	B	154	6	<p>Based on the foregoing authorities and information, any decision by BLM that has the effect of managing areas under a de facto wilderness standard is contrary to the BLM's authority. In addition any lands removed from mineral leasing based on this criteria is tantamount to a withdrawal of public lands requiring the BLM to comply with the process set forth in 43 U.S.C. Section 1714. There is no mention, let alone discussion in the Supplement of how these protections under the alternatives are not withdrawals of public lands.</p>	<p>Statement. Section 5.4 of the PRMP/EIS describes the Public Outreach and Participation process used during the planning process of this document.</p> <p>The BLM's authority for managing lands to protect or enhance wilderness characteristics comes directly from FLPMA Section 202 (43 U.S.C. §1712). This section of BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences." (FLPMA, Section 202(c) (2) (43 U.S.C. §1712(c) (2)).) Further, FLPMA makes it clear that the term "multiple use" means that not every use is appropriate for every acre of public land and that the Secretary can "make the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use. . . ." (FLPMA, section 103(c) (43 U.S.C. §1702(c)).) The FLPMA intended for the Secretary of the Interior to use land use planning as a mechanism for allocating resource use, including wilderness character management, amongst the various resources in a way that provides uses for current and future generations.</p> <p>In addition, the BLM's Land Use Planning Handbook (H-1601-1) directs BLM to "identify decisions to protect or preserve wilderness characteristics (naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation). Include goals and objectives to protect the resource and management actions necessary to achieve these goals and objectives. For authorized activities, include</p>	

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					conditions of use that would avoid or minimize impacts to wilderness characteristics.”	
Independent Petroleum Association of Mountain Stat	B	154	7	Under the Data Quality Act, the BLM is required to comply with OMB Guidelines designed to ensure and maximum the "quality, objectivity, utility, and integrity of information disseminated" form BLM to the public. See Section 515 of the 2001 Consolidated Appropriations Act, Public Law 106-554. The BLM has an obligation to ensure the integrity of information used in its land standard, and therefore, protection of WCAs would not be legally defensible in the Final Record of Decision for the Vernal RMP.	See comment response 154-B-6.	
Independent Petroleum Association of Mountain Stat	B	154	8	The review documents state that SUWA and the Utah Wilderness Coalition (UWC) provided more detailed information than had been considered during the 1980 inventory, but does not provide details about that information. This additional information should be readily available to the public.	The documents in question are available for public review at the Vernal Field Office upon request.	
Independent Petroleum Association of Mountain Stat	B	154	9	...history of the BLM's wilderness determinations outlined in the Wilderness Characteristics Review documents demonstrates that the initial 1979 inventory remains valid today, and these areas do not contain wilderness characteristics. The 1996-1999 reinventory which concluded that many of the areas previously considered not to have wilderness characteristics did, is often short of details supporting the change. Therefore, protection of WCAs as wilderness must be dropped in the Final ROD.	See comment response 154-B-6.	
Independent Petroleum Association of Mountain Stat	B	154	10	Alternative E would have a long-term adverse impact on mineral resource development in the planning area by placing additional 277,596 acres off-limits to oil and gas development. The BLM must ensure compliance with the Energy Policy Act of 2005, EPCA, the National Energy Policy, and Executive Order Number 13212, 66 Fed. Reg. 28357 (May 18, 2001) to reduce rather than increase	Comment noted.	

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				impediments to federal oil and gas leasing. IPAMS strongly opposes adoption of Alternative E.		
National Wildlife Federation	O	157	3	BLM Manual 6840 at .01. Pursuant to BLM policy, "[i]and use plans shall be sufficiently detailed to identify and resolve significant land use conflicts with special status species without deferring conflict resolution to implementation-level planning." Id. At .21J. The SDEIS lists the following objective as common to all the management alternatives considered. [i]mplement the management necessary to increase populations of special status species, including federally listed animal species, and restore them to their historic ranges by enhancing, protecting, and restoring known and potential habitat. DEIS at 2-30. The Preferred Alternative fails to meet these commitments.	See comment response 150-B-2.	
C.E. Brooks & Associates, P.C.	B	159	2	BLM incorrectly maintains that the RMP supplement was prepared to ensure consistency with the decision of the U.S. District Court for the District of Utah in SUWA v. Norton, 457 F. Supp. 2d 1253, 1267 (D. Ut. 2006) (Kimball decision). Supplement at 1-2. Judge Kimball did not hold that BLM had an obligation to protect non-WSA areas identified by BLM as possessing alleged wilderness characteristics. Instead, the court only held that National Environmental Policy Act (NEPA) documents supporting a sale of oil and gas leases failed to address the impact on wilderness values. This issue was raised by SUWA in scoping and other public comments. NEPA requires an agency to address every potentially significant issue. 40 C.F.R. section 1402.14(f). The BLM NEPA documents assessing the impacts of selling oil and gas leases did not, in large part, because they pre-dated the 1999 wilderness reinventory report. As to BLM's duty to	See comment response 9-G-12.	

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				<p>prevent uninformed decision -making under NEPA, the court held that BLM cannot rely on "outdated planning documents to argue that [the 1999 wilderness re-inventory findings and other significant new information pertaining to wilderness] values were previously identified or that the impacts of oil and gas development on them were previously evaluated." Id. At 1265.</p> <p>Thus, to the extend the Supplement undertakes the necessary analysis to determine what "the environmental effects of leasing and development will be to specific wilderness values," BLM is in compliance with Judge Kimball's decision. Id. Nowhere, however, did the court suggest that BLM must under NEPA and FLPMA adopt protective WSA-type management for these areas. Rather, in doing so, Alternative E violates the terms of BLM's 2003 Settlement Agreement in State of Utah v. Norton, 2:96-CV-0870, 2006 WS 211798 (D. Utah 2006) (appeal pending), and is not a viable alternative. BLM may consider an alternative that requires legislation, but it must disclose the need for such legislation. 40 C.F.R. 1502.14 (c). As BLM acknowledged in 2003 and the Secretary of Interior in 1996, BLM's authority to create WSAs expired. If an agency lacks legal authority, it cannot simply rename the proposed action and assume it now has the authority where it had none before.</p>		
Steven C. Hansen	I	161	2	<p>First of all, let me appeal to you to extend the public comment period by at least 120 days, in order to allow the public time to adequately research the proposals and respond. It is obvious to me and the public in general, that the simultaneous release of multiple EISs, EAs, RMPs that affect public lands in the region, was done so to overwhelm the public's ability to research and provide substantive comments by the deadlines that have been</p>	See comment response 142-O-14.	

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				announced.		
Public Lands Advocacy	O	170	4	In addition, BLM has ignored the findings of EPCA Phase II which evaluated and analyzed the impacts of drilling permit conditions of approval in addition to lease stipulations, as required by Section 364 of the Energy Policy Act of 2005. It is of grave concern that Alternative E would withdraw 60 percent of the Vernal Resource area from oil and gas leasing and development when the Uintah/Piceance Basin is projected to contain as much as 35 TCF of natural gas reserves. Alternative E is contrary to the direction contained in the EPCA II and the National Energy Policy as established in Executive Order No. 13211 and must not be adopted or incorporated into the final Vernal RMP.	Comment noted.	
The Wilderness Society	O	174	1	As a Supplement, this document should permit review and comment without a complete rereading of the DRMP/EIS. The original DRMP/EIS did not address the crucial issue of protecting lands with wilderness characteristics; the BLM is obligated to provide this Supplement to remedy the omission and cannot place an unreasonable burden on the public in order to review it. See, e.g., 40 CFR § 1502.9. It is the BLM's obligation under NEPA to "make diligent efforts to involve the public in preparing and implementing their NEPA procedures." 40 CFR § 1506.6(a). This Supplement does not meet this obligation.	Comment noted.	
Utah Rock Art Research Association	O	186	4	We are concerned about the absence of a clearly stated intent to initiate NHPA Section 106 compliance prior to the designation of OHV routes and other development activities.	Section 4.3.1 of the Draft EIS as well as Section 4.3.1 of the PRMP/EIS clearly state that : "All undertakings under all alternatives are subject to compliance with Section 106 of the NHPA, which mandates the consideration of avoidance or mitigation of adverse impacts on cultural resources or traditional cultural places that are either listed on or have been	

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					determined eligible for the National Register of Historic Places (NRHP).” Such compliance would also be required prior to the designation of OHV routes.	
Utah Rock Art Research Association	O	186	20	Further, we are concerned about the absence of a clearly state intent to initiate NHPA Section 106 compliance prior to the designation of OHV routes and other development activities.	See comment response 170-O-04	
Anadarko	B	188	1	Essentially, under this alternative, BLM would be managing the lands as if they had been designated as wilderness in contravention of BLM's mandate under the Federal Land Policy and Management Act to manage lands under the principles of multiple use and sustained yield and contrary to existing information demonstrating that such lands do not qualify as wilderness.	See comment response 154-B-6.	
Anadarko	B	188	2	The EIS fails to support the need for BLM to adopt such an overly restrictive option especially in light of the fact that most of the lands proposed for protection because of wilderness characteristics do not meet the criteria for wilderness.	See comment response 154-B-6.	
State of Utah	G	189	5	The State of Utah has reviewed BLM's inventory of and proposed management for lands identified as possessing wilderness characteristics.	Comment noted.	
State of Utah	G	189	7	The state cautions BLM against an overly broad reading of these decisions. Management authority must be derived solely from the specific provisions of the Federal Land Policy and Management Act, (e.g. Areas of Critical Environmental Concern) or other specific federal legislation, and it is incumbent upon the BLM to carefully define its detailed legal rationale and reasoning for its proposed management policies, provisions and categories.	See comment response 154-B-6.	
Uintah County	G	190	1	Adopting Alternative E would violate the restrictions of BLM's own Instruction Memorandum No. 2003-275, which states, "it is no longer BLM policy to continue to make	See comment response 154-B-6.	

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				formal determinations regarding wilderness character, designate new WSAs through the land use planning process, or manage any lands --[except Section 603 WSAs] in accordance with the non-impairment standard prescribed in the IMP [Interim Management Policy for WSAs]."		
Uintah County	G	190	2	The proposed Alternative E's restrictive management standards that would effectively treat Subject Lands as if they are WSAs, are largely built around BLM's 1999 Utah Wilderness Reinventory. Yet in 2003 the Department of Interior promised the State of Utah, among other things, not to use the 1999 Utah Wilderness Reinventory to manage public lands "as if" they are, or may become, WSAs. Utah v. Norton settlement agreement of April 11, 2003 at p. 13 para 14.	The Utah v. Norton Settlement Agreement does not affect BLM's authority to manage public lands. This Agreement merely remedied confusion by distinguishing between wilderness study areas established under FLPMA §603 and those lands required to be managed under §603's non-impairment standard, and other lands that fall within the discretionary FLMPA §202 land management process. See also comment response 154-B-6.	
Uintah County	G	190	3	The State of Utah's policy and plan for managing BLM lands is substantially set forth in Utah Code 63-38d-401(6), (7) and (8). A copy of that portion of the Utah Code (Exhibit 2)( is enclosed for your reference. It is self evident that the management prescriptions and restrictions in the proposed Alternative E are not inconsistent with the standards and policies set forth in this State statutory provision.	See comment response 150-B-2.	