

*Submitted via [eplanning.blm.gov](https://eplanning.blm.gov)*

September 23, 2024

State Director Andrew Archuleta  
Bureau of Land Management  
Wyoming State Office  
5353 Yellowstone Road  
Cheyenne, WY 82009

**Re: Protest of Wyoming BLM Rock Springs Field Office, Proposed Resource Management Plan and Final Environmental Impact Statement. DOI-BLM-WY-D040-2011-0001-RMP-EIS**

Dear State Director Archuleta,

For the reasons detailed below, the Petroleum Association of Wyoming and Western Energy Alliance (collectively the Associations) are protesting the Bureau of Land Management (BLM) Rock Springs Field Office's Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP).

The Petroleum Association of Wyoming represents the state's oil and natural gas industry including production, midstream processing, pipeline transportation, and oil field service companies. The Association also represents affiliated companies offering oil and gas related legal, accounting, oilfield services, and consulting services. Eighty-five percent of the oil and gas companies operating in Wyoming are classified as small businesses.

Working with a vibrant membership base for over 50 years, Western Energy Alliance stands as a credible leader, advocate, and champion of independent oil and natural gas companies in the West. Our expert staff, active committees, and committed board members form a collaborative and welcoming community of professionals dedicated to abundant, affordable energy and a high quality of life for all. Most independent producers are small businesses, with an average of fourteen employees.

### **Statement of Reasons**

The Associations are protesting this PRMP because the State Director failed to address our substantive comments submitted on the draft RMP. The Association's comments provided clear facts, referenced

pertinent white papers and offered analysis of the current operational aspects of the oil and natural gas industry, which was glaringly misrepresented in the draft RMP and led to poor decision making on behalf of the BLM.

The State Director failed to consider the advancements of this industry, including its lessening footprint and fragmentation on the landscape due to advancements in technology; and the corollary progress that continues to be made in reclamation, which now often results in habitat more suitable for wildlife and ecosystems than reference, unreclaimed lands. Instead, the BLM is proposing a substantial increase of lands closed to future oil and natural gas leasing, increased stipulations on other acreage and an increase in rights-of-way exclusion and avoidance areas.

The Associations identified egregious errors and outdated data the BLM used to form its analysis. Flawed data was identified, most notably the BLM's Reasonably Foreseeable Development (RFD) of oil and natural gas wells, 14-year-old active lease information shown on Map 3-8 and incorrect boundaries of a designated migration corridor. The use of these flawed data and projections makes the State Director's assumptions of impacts among alternatives, selection of preferred management actions and determination to designate Areas of Critical Environmental Concern (ACEC), misguided.

The BLM failed to justify why current management activities are incapable of protecting resource relevance and importance criteria within ACECs proposed for designation. This includes the fact that the BLM failed to provide a critique of the management actions in the current RMP, the state of Wyoming executive order managing Greater Sage-Grouse (GRSG) species and its habitat, ancillary BLM RMPs managing GRSG habitat, the state of Wyoming executive order on ungulate migration corridors, other BLM regulations and state programs charged to implement conservation activities across the state. The BLM provided no analysis of this information nor justification of how the additional, proposed restrictions will protect relevance and importance (R&I) values, which severely misinforms their determinations that additional ACECs are warranted.

The Associations understand that the BLM relied upon the recommendations regarding management actions developed by a Task Force established by the Governor of Wyoming. Many interested stakeholders had an opportunity to elevate their priorities and find consensus support through this avenue. The BLM's recognition of this consensus is warranted. However, the BLM's lack of recognition on important management considerations where consensus was not found is detrimental.

The oil and natural gas representative supported proposals offered by the other 10 stakeholders represented on the Task Force, including livestock, recreationists, hunters, conservationists and environmentalists. However, when looking for reciprocal support, one stakeholder vetoed the unanimous will of the others in the group. The oil and natural gas industry was pre-destined to not find a conciliatory environment through this Task Force. Two recommendations were offered for Task Force support, on two areas most consequential to our future – keeping lands available for leasing and limiting immediate restrictions on Rights-of-Way (ROW). These proposals did not make the Governor's Final Report due to the dissention of one Task Force member.

The Associations did not rely on the Task Force to do our work for us, which is reflected in the extensive comments we submitted on our own. However, this lack of visibility in the final product of the Task Force makes it all the more important that the Associations protest this PRMP because it is clear that our voices, our substantive comments, have not been relied upon by the BLM. We hope it is not because of a lack of consensus recommendations provided by a flawed Task Force process.

## **Interest in Filing This Protest**

The BLM's failure to consider, respond to or incorporate the Associations prior comments necessitates our need to protest the PRMP. The BLM's false perceptions of the impacts from oil and natural gas development and its corresponding decisions to restrict or remove development will have detrimental effects to this industry. It will remove the industry's ability to access new acreage on over 1,076,039 acres which the BLM declared closed. Much of it overlaps areas with extensive, existing leased acreage. The Preferred Alternative establishes stricter rights-of-way requirements, with more lands designated as avoidance or exclusion areas. These areas similarly overlap with federal lands that have extensive active leases and may become inaccessible upon issuance of a Record of Decision (ROD), if the BLM stays on its current path.

The combined effects of these actions will hinder new oil and natural gas development opportunities and will have corollary effects to valid existing leases. Without the ability to fill in development areas with additional federal acreage or access existing leasing with new ROWs, those existing leases lose their value. These actions will have direct and sizable effects on the oil and natural gas industry in the Rock Springs Field Office (RSFO).

The PRMP will have domino effects on the economies, livelihoods, culture and heritage of the communities in the affected area. It will reduce tax revenue derived from the federal, state and local governments, hindering their ability to provide the social services the communities depend upon. By the BLM's own analysis, selecting the Preferred Alternative as compared to existing management will cause a **reduction in total economic output by \$17.3 billion** (\$29.9B current to \$12.6B in the preferred), **total labor earnings reduced by \$3.1 billion** (\$5.4B current to \$2.3B in the preferred), a **reduction in state and local tax revenue by \$1.5 billion** (\$2.3B current to \$0.8B in the preferred) and a **reduction in jobs by 3,450** (6,157 current to 2,707 in the preferred). These are anything but inconsequential statistics.

The oil and natural gas industry stands to be the most negatively affected by the State Director's decisions in the PRMP. We thus have the greatest interest in protesting its current management proposals.

## **Prior Comments on the Rock Springs Field Office Draft Resource Management Plan**

The Associations commented extensively to the RSFO on its draft RMP, with joint comments submitted on January 17, 2024, via the BLM's *eplanning* web portal created for this RMP Revision. The Associations incorporate our prior comments by reference for purposes of this protest.

## **Issues Being Protested**

The Associations encourage the BLM to read our comments as a whole, not to segregate one section from another. To reduce redundancy, the Associations have limited repetitive statements. However, many topics, like improved reclamation and lessening footprint, transcend nearly all of our comments. Read as a whole, the BLM should come to a similar conclusion as the Associations – keeping oil and natural gas development opportunities available at this stage will assist the BLM in making better decisions during the life of the RMP and will allow for the economies supported by this industry to continue to be strong.

## **BLM's Reliance on the Governor's Task Force Recommendations**

The Governor of Wyoming established a Task Force, represented by eleven different stakeholder groups with interests in the multiple use of public lands in the RSFO. The intent of this Task Force was to provide consensus recommendations to the BLM on management actions that would garner broad support.

The process appears to have worked for many stakeholders, albeit for one – the oil and natural gas industry. As mentioned, the oil and natural gas representative supported many of the recommendations offered by other stakeholders. However, the two prominent recommendations offered by the oil and natural gas stakeholder did not make the final report due to a dissension from one individual – the environmental stakeholder. Even though the 10 other stakeholders provided their highest level of support to allow continued oil and natural gas leasing and lessening immediate restrictions on ROW, this support was not reflected in the Governor’s final report.

The Associations provided in-depth, substantive comments to the BLM on why the proposed leasing and ROW restriction are unnecessary. The Association’s understand that the Task Force process and end result was not one created by the BLM. However, the BLM appears to have offered additional consideration to the final Task Force Report within the PRMP. There is a perception this was done in lieu of recognition of our substantive comments, which would be a direct violation of the BLM’s responsibilities.

The Associations’ concern arises from both the half-hearted response we received to only one of our comments and the lack of recognition of the remainder of our comments, as reflected in the PRMP. The BLM has a responsibility to review and respond to substantive comments and have those inform its decision-making in the land use planning process. This did not occur. The Associations remind the BLM of its responsibility that all substantive comments need to inform its work. It cannot only rely on comments which support a pre-determined, policy-oriented outcome.

The Associations must now reinforce many of our prior concerns in a final attempt to inform a management plan consequential to this industry.

#### Management Action 2207 – Oil & Natural Gas Leasing

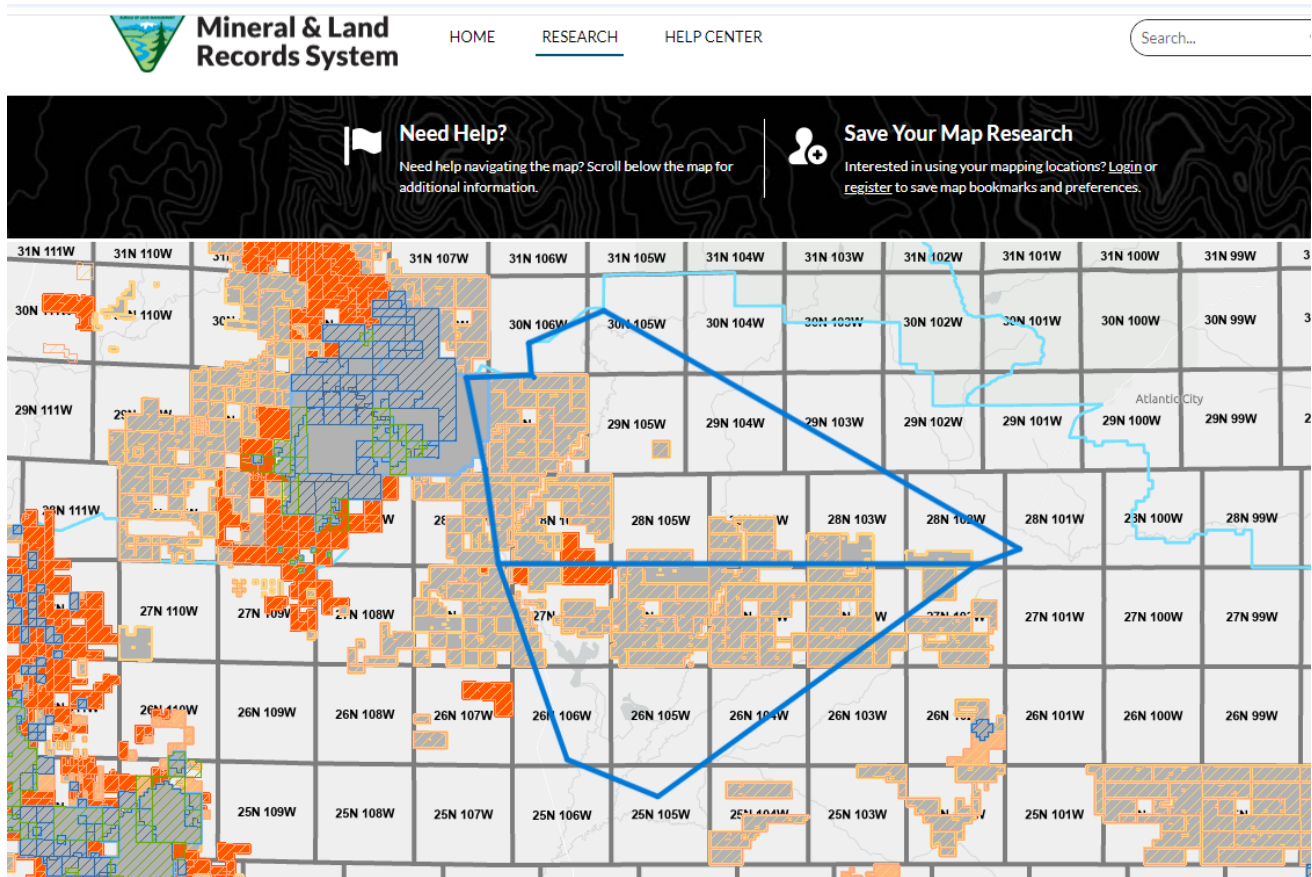
The BLM is proposing to close 1,076,039 acres in the RSFO to future oil and natural gas leasing. This is an increase from 540,021 acres. This will impact oil and natural development in the northern part of the field office where the BLM is proposing multiple ACECs. The Wind River Front West Portion (Appendix C.12.2) and the Sandy Rivers Portion (Appendix C.13) of the South Wind River Front ACECs are of significant concern. The BLM is proposing this ACEC to protect Greater Sage-Grouse habitat and a BLM-defined mule deer migration corridor.

Many of these proposed ACECs have current, valid federal oil and natural gas leases within them. **Figure 1** below is a map of the active federal oil and natural gas leases as reflected by the BLM’s Mineral & Lands Reporting System on September 10, 2024. The boundaries of the first ACEC are shown within the blue encompassed area on the north and the boundaries of the second ACEC are shown in the blue encompassed area on the south.

As can be observed in Map 2-10 in the PRMP, which reflects the BLM’s Preferred Alternative, the entire area within these ACECs will be closed to future oil and natural gas leasing and much of the area to the south and east outside of the ACECs will be No Surface Occupancy (NSO) or Controlled Surface Use (CSU). There is federal acreage within and surrounding the existing leases that have been nominated but not yet offered by the BLM. The BLM’s removal of this acreage from future leasing could block currently

leased resources from diligent development that honors environmental, species protection and economic values. This is a shortsighted position from the BLM.

Figure 1 – BLM MLRS



The Associations described in our comments on the draft RMP that directional and horizontal drilling have become more prevalent since 2010 and allow for multiple wells per pad. This practice has reduced surface disturbance by as much as 70 percent and gives more options to operators to access leased parcels under appropriate stipulations.<sup>1</sup> Parcels that would be off-limits to leasing under the Preferred Alternative could in fact be responsibly developed since industry practice does not result in the impacts that the BLM assumes. Moreover, through the application of prudently attached lease stipulations rather than the blanket closure to leasing that the BLM envisions, impacts to other natural resources can be further minimized or eliminated altogether.

Additionally, reclamation practices continue to improve. Soil management practices have been extensively studied in Wyoming and they have assisted with overall habitat enhancement (Curran et al. 2024). Several examples include recent research from the Jonah Infill and Pinedale Anticline natural gas fields. These suggest early successional native vegetation communities (i.e., 1-3 years-old) on reclaimed natural gas

<sup>1</sup> Oil and gas impacts on Wyoming’s sage-grouse: summarizing the past and predicting the foreseeable future,” *Human-Wildlife Interactions Vol. 8 No 2*, Dave H. Applegate and Nick L. Owens, 2014, p. 284-290

well pads contain significantly higher amounts (i.e., 3-22x) of insects than reference ecosystems which are predominantly composed of decadent, old-growth stands of sagebrush (Curran et al. 2022ab).

More recently, it has been proven that these initial reclamation efforts have prolonged benefits to the terrestrial food web for at least 12 years in a study examining vegetation diversity and insect diversity on 5-12-year-old well pad reclamation (Curran et al. 2024). In 2023, a 13 mile stretch of pipeline ROW reclamation was examined for vegetation and insect diversity. It was found that out of 931 insects found combined across the reference and reclamation system, 764 individuals (82 percent) were found on the reclaimed area (Curran et al., *In Preparation*)

Insects provide important ecosystem services of pollination, biodiversity, nutrient cycling and soil decompaction and are the primary source of protein for 96 percent of juvenile, terrestrial birds (Tallamy & Shriver 2021). In non-winter months, insects and forbs have shown to be important in GRSG diet and are critical to chick development during brood-rearing (e.g., Curran et al. 2015, Drut et al. 1994, Klebenow & Gray 1968). For example, Klebenow & Gray (1968) showed sagebrush makes up only 8 percent of juvenile GRSG diet, with insects (11 percent) and forbs (81 percent) being more important to healthy development. The same study showed leaf beetles from the *Chrysomilidae* family to be a primary component of the GRSG chick diet in weeks 5-10 post-hatch. In two of the lower 48 United States' most challenging environments due to aridity and extremely short growing seasons, it has been shown reclamation efforts on natural gas well pads can result in a 73-180x increase in these beetles within one year of initial reclamation seeding when Rocky Mountain bee plant (*Cleome serrulata*) is included in the seed mix (Curran et al. 2022ab).

These results suggest that as upstream and midstream operators in natural gas fields coordinate on reclamation efforts and goals with an emphasis on establishing native vegetation communities, a network of biodiversity hotspots (well pads) and ecological corridors (rights-of-way) is possible. Improvements in reclamation practices suggest disturbance with subsequent reclamation can actually improve habitats which have been managed by humans for many decades prior to development.

Keeping lands available for oil and natural gas development also allows the BLM to optimally place limited disturbances. The BLM would be able to look across a landscape and determine where well sites, roads and other infrastructure would best be placed. Post-disturbance reclamation would then make those habitats even stronger. Prematurely closing large swaths of land removes this ability.

The BLM is similarly proposing to increase the acreage subject to NSO, from 158,611 acres to 215,437 acres. This is largely within the area proposed for the Steamboat ACEC expansion and the Western Portion of the Red Desert Watershed ACEC. The latter, in Township/Range 25N 100W and 25N 99W, is similarly largely held by existing federal oil and natural gas leases. The extent of this NSO will render much of the acreage inaccessible to future oil and natural gas leases.

The BLM's stubborn continued use of outdated data blurs its judgment of effects and leads to unreasonable decisions on oil and natural gas leasing. The BLM includes Map 3-8 which shows federal oil and gas leases in the RSFO. However, this map was generated in October 2010. The landscape of leasing in the RSFO has changed dramatically since then. The use of this 14-year-old leasing data makes the BLM's assumptions about effects to existing leases and future development potential off base. As shown in **Figure**

1, the BLM has public-facing leasing data which it could have incorporated in a matter of minutes to make its analysis more reasonable.

The BLM should keep lands available for leasing in the RSFO.

#### Management Action 6201 – Rights-of-Way

The PRMP proposes an increase of 69 percent in ROW acreage designated as avoidance or exclusion. A majority falls within the latter category and covers productive lands in the northern portion of the field office. The two previously mentioned ACECs will be closed for ROW, both within existing federal oil and natural gas leased areas and completely encompassing them.

Converting this entire area to ROW exclusion is unnecessary and will have implications on current leases and future development activities. Existing leases without an active ROW could become inaccessible and thus unavailable for the development of the underlying resources, which could constitute a taking.

Additionally, the BLM will be restricting access to one of its own corridor ROWs established through the Wyoming Pipeline Corridor Initiative (WPCI). One purpose of the WPCI was to streamline federal approval of CO2 pipeline infrastructure necessary to meet the Administration's CO2 sequestration goals. Map 2-30 shows the designations for ROWs in the RSFO. An active corridor traverses west to east through the heart of the expanded ROW exclusion areas. The Associations are concerned about the BLM's action here and possible implications to either develop new infrastructure within that corridor or to access that corridor from the outside. Further, this ROW closure is clearly at odds with Administration priorities.

Similar studies are underway showing the success of reclamation practices across linear infrastructure. These studies are occurring in proximity to the RSFO. The industry's lessening footprint due to the use of multi-well pads leads to a similar reduction in disturbances from linear infrastructure. Overall, estimates indicate as much as a 70 percent reduction (Applegate and Ownes, 2014). ROW disturbances are now more concentrated, limiting the BLM's assumption that ROW in general will have unmitigated impacts to the area.

A final note on the BLM's proposals for ROWs is the obligation to not impede access to state lands. Wyoming has a Constitutional responsibility to generate revenue on lands it owns for the benefit of its beneficiaries, notably the public education system and state institutions. This has been a requirement since Wyoming's Acts of Admission. State lands are very often encompassed by federal lands, as can be seen in **Figure 1** at each Section 16 and 36 within every Township/Range. By the Associations' review, 133,780 acres of Wyoming state trust lands will be encircled by BLM ROW restrictions. This will render the state trust lands' mineral value worthless.

#### Impact on Valid Existing Rights

The BLM's preferred management actions for oil and natural gas leasing and ROWs could have implications to valid existing rights. Eliminating operators' ability to lease additional acreage may inhibit their ability to properly develop existing leases. Removing their ability to access the existing leased areas through ROW exclusions will remove their ability to develop sites, connect necessary electric infrastructure and transport product off site. It eliminates the purpose for which the existing leases were purchased and eliminates their value – including the bonus bid to purchase the leases, annual rental payments and any future revenues generated from production of oil and natural gas resources.

Federal lessees have a legal right to occupy the surface to explore for, produce and develop oil and natural gas resources on their leases, subject only to the stipulations contained in their lease at the time of issuance. See *Pennaco Energy v. United States Dep't of the Interior*, 377 F.3 d 1147, 1160 (10th Cir. 2004). The BLM cannot terminate, modify or alter any valid or existing property rights – such as existing oil and natural gas leasing rights – or apply unduly restrictive conditions or stipulations that would significantly impede or impair new or continued development of existing leases and other rights, like instituting restrictive ROW policies which impede a right-holder's ability to access and develop their lease. See *Colorado Environmental Coal., et al.*, 165 IBLA 221, 228 (2005) (citing *Colorado Environmental Coal.*, 135 IBLA 356, 360 (1996) aff'd, *Colorado Environmental Coal. v. Bureau of Land Management*, 932 F. Supp. 1247 (D. Colo. 1996)); *Mitchell Energy Corp.*, 68 IBLA 219, 224 (1982).

These lands require ROW through federally managed lands for utilization. Without that access, the value of their mineral potential goes to zero. The BLM must respect this charge given to the state and ensure that no actions taken within this RMP impede the state's ability to fund these activities. 43 C.F.R. § 1610.3-2 outlines the discretion afforded to states and a Governor's ability to make state policies known to the BLM through a consistency review. The Associations can think of no higher instance of where federal government deferral is warranted than to a state Constitutional mandate.

#### Reasonably Foreseeable Development Analysis

The Associations commented on no less than thirteen different issues on the draft RMP. The only one the BLM responded to was our arguments on the RFD projections the BLM used as a basis of determining impacts in the RMP. However, the BLM's response was half-hearted and insufficient to remedy the Associations' concerns with its use. The sum of the BLM's argument was:

*The RFD is not a goal or intended outcome, but rather a **baseline** measurement tool for analysis comparison among the alternatives...the baseline data is adequate to compare conditions and differentiate **resource impacts among the alternatives**<sup>2</sup>.*

This is exactly what the Associations argued is not true. The Associations stated:

*the **BLM's outdated projection causes a severe overestimation of oil and natural gas development by 1,867 percent**. The assumptions used in projecting impacts for every alternative, of which oil and natural gas development was the predominate factor for determining impacts, are overestimated somewhere in the ballpark by a factor of 19.*

The BLM states in the PRMP, at Section 4.2:

*The analysis of the alternatives is focused on identifying the types of impacts anticipated to occur and estimating their potential intensity.*

The BLM states in the Executive Summary that the primary difference in impacts among alternatives is the result of varying levels of oil and natural gas development expected to occur under the management actions within each alternative. The BLM cannot conduct a reasonable comparison of impacts among alternatives if the baseline from which those impacts is judged is overestimated by a factor of 19. That is

---

<sup>2</sup> BLM RS RMP, Volume 2, Appendix W – Response to Comments, page W-422, Comment ID #13702-16



simply too far off-base to come to a reasonable expectation of outcomes. It paints an unrealistic expectation for implications to air quality, surface disturbance, water quality, surface and ground water usage, cultural resources, ACEC relevance and importance criteria, invasive species, wildlife habitat, visual resources and others.

If the BLM's RFD had even been in the ballpark of reasonable, the BLM would have come to a conclusion that even Alternative 3 (the Development Alternative) would result in lesser impacts than what was estimated in Alternative 2 (the Conservation Alternative) using the inaccurate RFD. The BLM's response to this comment seemed more a box-checking exercise than a concerted consideration.

We again call on the BLM to withdraw the PRMP, redo the RFD and issue a new draft RMP. Using more relevant information will give the public and the BLM a better understanding of the possible outcomes of varying management actions.

### Areas of Critical Environmental Concern

The Associations protest the process the BLM used to justify new and expanded ACECs. The BLM predetermined its desire to add protectionist measures to a substantial number of acres in the RSFO and then set out to accomplish this goal. The National Environmental Policy Act, instead, is intended to lead the BLM to a decision based on consideration of anticipated impacts from various actions and incorporating requirements from other federal laws. The backwards process employed here has resulted in an unsubstantiated increase in ACEC acreage from 286,470 currently to 935,135 acres under the Preferred Alternative.

The BLM neglected a simple, yet profound, responsibility – to disclose whether ACECs and their associated additional management are even warranted. As examples, the Associations again point to the Wind River Front West Portion and the Sandy Rivers Portion of the South Wind River Front ACECs. The primary resources under consideration in these proposed ACECs are undeniably habitat for GRSG and ungulate migration corridors.

In proposing to designate these areas as ACECs, the BLM neglected its responsibility to analyze existing management actions and determine if they are incapable of protecting the resource values under consideration. Here, specifically, that would include:

- BLM RMPs to conserve Greater Sage-grouse habitat;
- The state of Wyoming's executive order for GRSG;
- The state of Wyoming Migration Corridor Executive Order, putting added protections and regulatory oversight in the most important areas for designated migration corridors;
- The BLM's recent revisions to its oil and natural gas program, including criteria it uses to judge lands it intends to lease. Criteria include proximity to development, development potential, wildlife habitat and corridors;
- The BLM's recently finalized Conservation & Landscape Health Rule, which has new mitigation requirements; and
- Other programs such as the Wyoming Wildlife & Natural Resource Trust, a state entity which has invested millions of dollars in Greater Sage-Grouse conservation across the state.

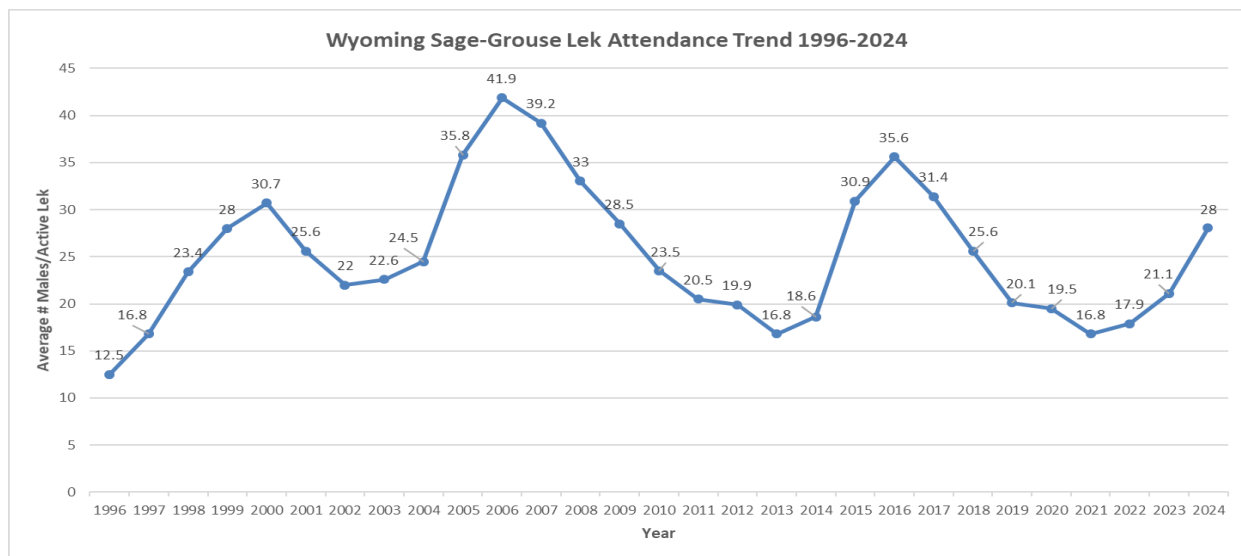
The BLM even admits in the PRMP that it intentionally did not consider GSRG management<sup>3</sup>:

Greater Sage-grouse management, including all actions related to management of Priority Habitat Management Areas and General Habitat Management Areas, are being addressed under separate ongoing Amendment(s) and are not included as planning issues for this document. All management actions, including restrictions for mineral development, that are currently being implemented through prior Amendment (Ex. 2015) are outside the scope of this planning effort and are not analyzed.

The fact that the BLM is going through a separate RMP revision process does not negate the BLM's responsibility to consider existing management actions for GSRG and their effectiveness in protecting those values.

It seems premature that the BLM would determine additional protections are needed for GRSR before they even know what their revised GRSR RMPs will require. One factor of prominent consideration through that RMP revision process is the health of the species. While cyclical, the Wyoming Game & Fish Department has just released 2024 information showing lek populations have increased by 33 percent (Figure 2). The species is on an upward trend and there is good evidence to suggest that the management requirements surrounding this species in Wyoming are an important contributor to that trend.

**Figure 2 – WGFD Lek Count Data**



The BLM likewise provided no analysis of why the additional management actions proposed are needed to protect resource values. These primarily include no additional oil and natural gas leasing and ROW exclusion areas surrounding the entire area. The Associations wonder why these blanket, broad restrictions necessary, beyond what currently exists, to protect GRSR and ungulate migration?

The BLM's lack of analysis and disclosure of this information is a violation of their responsibilities under Federal Land Policy & Management Act.

<sup>3</sup> PRMP, page ES-3.

The Associations are further concerned about the *de facto* ACEC the BLM has placed across a BLM-defined Big Game Migration Corridor. While the BLM has not officially proposed to designate this as an ACEC, its path traverses the northern portion of the RSFO. This is an area the BLM is proposing expansive ACECs that will impose stringent requirements across the corridor. These include CSU, NSO, closing oil and natural gas leasing, ROW avoidance and exclusions.

In the PRMP, Management Action 4424, the BLM states that it will allow fluid mineral surface occupancy and use within the defined Big Game Migration Corridor. However, with the other ACECs layered on top, this is simply not true. A significant portion of the corridor will be closed to these activities. This does not align with how the state of Wyoming manages oil and natural gas development within designated migration corridors. The BLM also states that it and the mineral operator must come to an “acceptable conservation plan” before any use is approved. The Associations remind the BLM that mule deer and antelope are state-managed species. The BLM has no part and should remove any perception of managing non-ESA listed species.

The Migration Corridor reflected in this PRMP is not the same as the one designated by the state of Wyoming. This is another instance where the outdated nature of the BLM’s data causes significant problems in its analysis and ultimate selection of management direction. The BLM’s corridor was based on circa-2011 information, while the state went through a rigorous process after that date and did not officially designate this corridor until 2019<sup>4</sup>.

On a final note, the Associations reviewed passages in the BLM’s Final Scoping Report Appendix A-Comments Summary. Our interest was to determine how various ACECs came to be nominated through this process. For one instance, a search of the Wind River Front identifies one entity encouraging additional restrictions, but there is no direct request for the BLM consider the lands surrounding the Wind River Front be considered as an ACEC.

Upon further review, the BLM did not specify in the draft or PRMP where the proposed ACECs originated. This lack of disclosure blurs the public’s understanding of the origins of these ACECs and the BLM’s decision-making process to offer them through this process for consideration. This information needs to be made available.

### National Historic Trails Management

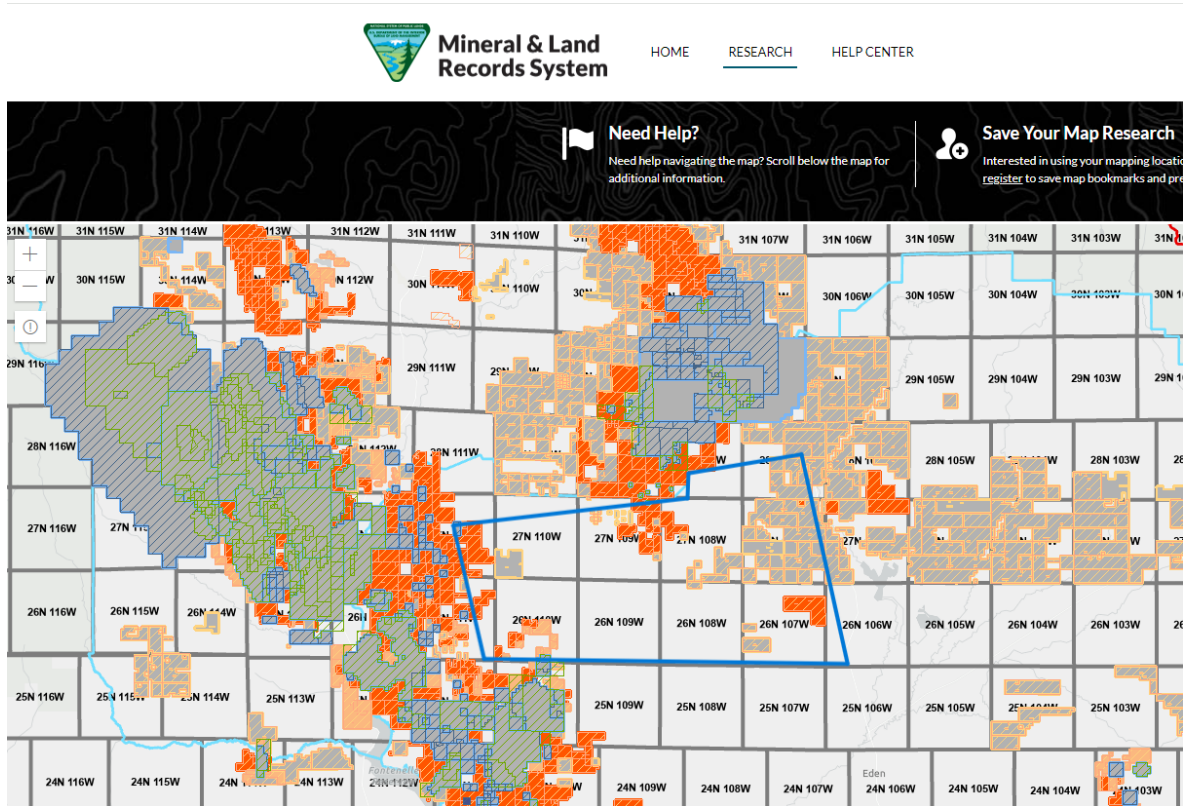
The BLM did back off its position in the draft RMP of adding a new, 10-mile-wide ROW exclusion area surrounding Congressionally Designated Trails. However, the BLM continues to propose this extensive buffer, though with ROW avoidance. The BLM still intends to ratchet down on activities within this buffer area by restricting anything with more than a weak contrast to the surrounding area, i.e., the BLM is changing the Visual Resource Management from Class IV (least restrictive) to Class II, where very minimal activities can be approved.

As seen in **Figure 3**, large sections of this proposed 10-mile buffer have existing federal oil and natural gas leases. It should also be noted that areas within this 10-mile buffer already have infrastructure development, which implies the BLM intends to restrict such activities.

---

<sup>4</sup> WGFD Designated Sublette Mule Deer Migration Corridor: <https://wgfd.wyo.gov/media/15535/download?inline>

Figure 3 – National Historic Trails Management Area



The BLM offers no basis for broadening the buffer from the current ¼ mile to 10 miles. This appears to be an arbitrary decision with the aim of hamstringing productive activities. Additionally, federal leases wholly within Township/Range 27N 108W and partially within 27N 109W fall within the outer boundaries of the Normally Pressured Lance Development Area, a federally approved oil and natural gas development project with an approved ROD. The BLM’s proposal to layer ROW avoidance and VRM Class II will have implications for the future development of this project.

This issue was addressed in the Governor’s Task Force Final Report:

*Task Force Recommendation #6: No new exclusions or avoidance for fluid mineral development and rights of ways in areas operating under existing and approved record of decision.*

This is one area that all stakeholders agreed the BLM should not intrude upon.

The BLM should continue with the current management of Congressionally Designated Trails.

### Appendix I – Reclamation Plans

The Associations are concerned about the BLM’s requirements for reclamation. In particular, the BLM is proposing that reclaimed sites will be considered suitable when ground cover reaches 50 percent. This is an arbitrary threshold and does not account for variability within landscapes. This position essentially dictates that reclaimed sites with 49 percent coverage are insufficient but those with 51 percent coverage are outstanding.

The ‘conservation of pattern and process’ paradigm for rangeland management proposed by Fuhlendorf et al. (2012) suggests perhaps the healthiest rangelands are those which contain a patchy mosaic of native vegetation at different successional stages. While fragmentation may contribute to declines in biodiversity when it is synonymous with habitat loss (Haila 2002), other conceptual models show different results (Fahrig 2003) with a recent meta-analysis examining 381 significant responses to habitat fragmentation showing 290 (76 percent) were positive (Fahrig 2017). Reasons for positive ecological responses to fragmentation may include increased functional connectivity, increased habitat diversity, positive edge effects and landscape complementation (Fahrig 2017).

As the majority of surface disturbance associated with oil and natural gas development undergoes reclamation soon after initial surface disturbance, and because operators and practitioners can be intentional with the seed mixes and reclamation treatments they apply, reclamation efforts can be viewed as a form of ‘assisted succession.’ Results from studies conducted on 1-3-year-old reclaimed natural gas well pads show a 3-22x increase in insect abundance and significantly higher insect diversity (Curran et al. 2022a,b). This is consistent with successional theory which suggests that peaks in biodiversity would likely be seen in early successional stages (Walker & del Moral 2003). More recent research on 5-12-year-old natural gas well pads suggests that insect abundance and diversity remain significantly higher than levels found in reference ecosystems consisting of old stands of late successional sagebrush within the Pinedale Anticline natural gas field (Curran et al. 2024). It is important to note recent research suggesting that the ‘sagebrush sea is more than *Artemisia*’ in Copeland et al. (2024) where the degraded understory of sagebrush monocultures is highlighted. Reclamation efforts may increase native seed load and improve habitat diversity. Undisturbed sites within the Jonah Field average 9.6 species, annual herbaceous productivity of 273 pounds per acre and 46 percent similarity to desired ESD. Restored sites average 16.1 species, 457 pounds of annual herbaceous productivity and 54.4 percent similarity to desired ESD.

Aside from the arbitrary 50 percent sagebrush criteria, which ignores environmental variability and general ecological succession principles, it is well documented that inter-observer variability is an issue in vegetation monitoring (Morrison 2016, 2021, Curran et al. 2019, 2020ab). The BLM’s Assessment Inventory and Monitoring (AIM) program requires observers sampling the same linear transect to be within an 85 percent confidence interval to validate data (allowing for 15 percent discrepancies among multiple observers). It is well documented that observer experience and environmental factors (wind, heat, etc.) influence quantitative observations among data collectors along the same transect (Cagney, Cox, Booth 2011). While a linear transect is not an optimal way to sample a reclamation well pad or pipeline for a variety of reasons (Curran et al. 2019), the BLM has given little to no guidance on how to actually quantify data on reclamation sites versus reference systems and there is oftentimes variation between already existing BLM Field Office requirements (Curran et al. 2013, 2015).

At the very minimum, the BLM should remove a hard, binary and subjective criteria of 50 percent minimum coverage which fails to consider haphazard sampling and perhaps look at ecosystem health and functionality or recent advancements in the scientific literature. Ecological reclamation has recently been defined as “the process of assisting the recovery of severely degraded ecosystems to benefit native biota through the establishment of habitats, populations, communities, or ecosystems that are similar, but not necessarily identical to surrounding and naturally occurring ecosystems” (Gerwing 2022). As much of the western United States has been managed for various land use (e.g., domestic livestock grazing, recreation) for many decades prior to oil and natural gas development, most reference ecosystems which oil and

natural gas reclamation sites are compared to are likely to be categorized as cultural landscapes which have ‘developed under the joint influence of natural processes and human-imposed organization’ (Balensiefer et al. 2004).

In Wyoming, the oil and natural gas industry has not only proven it can develop this patchiness spatially, but also temporally by planting seed mixes which include forbs blooming at different times (Curran et al. 2022b) to enhance pollinator habitat and GRSG food availability across the critical components of their youth, where sagebrush is likely to play less than 10 percent into their dietary needs than insects or forbs (Klebenow & Gray 1968).

#### Appendix J – Wildlife Stipulations

Construction of linear infrastructure will be very difficult in the face of the numerous and layered seasonal and buffer stipulations for wildlife as contemplated in Table J.5. The BLM is proposing new buffer and seasonal stipulations for migratory birds. The vagueness of the stipulations leaves many questions, including:

- What is meant by immediate area of nest?
- What is the functional tool to apply this since the migratory bird authority is under the U.S. Fish & Wildlife Service?
- How are companies to know when to apply the restrictions? What is the mechanism for how that would be considered and applied?
- February and August seem very conservative for the start and end of the biological season - where did this conservative restriction come from? The Associations are not familiar with it from the draft or upfront work and discussions.

#### **Conclusion**

The State Director’s decisions in forming a ROD must account for the realities of how the oil and natural gas industry operates today. They must respect valid existing rights. They must recognize the shortcomings of the data used to analyze management actions among alternatives. Remaining ignorant of these facts will result in unnecessary impacts to the people and economies of the RSFO.

Sincerely,



Pete Obermueller  
President  
Petroleum Association of Wyoming  
2435 King Boulevard, Suite 140  
Casper, WY 82604  
(307) 234-5333



Kathleen Sgamma  
President  
Western Energy Alliance  
1660 Lincoln St., Suite 2175  
Denver, CO 80264  
(303) 501-1059