



COALITION OF LOCAL GOVERNMENTS

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COUNTY COMMISSIONS AND CONSERVATION DISTRICTS FOR CARBON, FREMONT, LINCOLN,
SWEETWATER, UINTA, AND SUBLETTE - WYOMING

May 18, 2011

VIA E-MAIL NPL_EIS_WY@blm.gov

Ms. Kellie Roadifer kellie_roadifer@blm.gov

Pinedale Field Office

Bureau of Land Management

1625 W. Pine Street,

Pinedale, Wyoming 82941

Re: Scoping Comments on Normally Pressured Lance Natural Gas
Development Project Notice of Intent to Prepare an Environmental Impact
Statement (EIS)

Dear Ms. Roadifer,

The Coalition of Local Governments (CLG), including Sweetwater County, Sweetwater County Conservation District, Lincoln County, Lincoln Conservation District, Star Valley Conservation District, Sublette County, and the Sublette County Conservation District, submits these comments with respect to Operators' proposal before the Bureau of Land Management (BLM) to drill 3,500 natural gas wells, and associated roads, pipelines, and ancillary facilities on about 140,000 acres of public lands located in Sublette County, WY. 76 Fed. Reg. 20370 (Apr. 12, 2011). Through the CLG, the local governments coordinate their participation in federal land use plans and projects. [CLG commented on the 2008 Normally Pressurized Lance Environmental Assessment \(EA\) and incorporate by reference those comments.](#)

I. REQUEST FOR COOPERATING AGENCY STATUS

1. Local Governments Have Jurisdiction

This letter should also be considered a specific request for cooperating agency status by each of the above-named local governments. The counties and conservation districts meet the Council on Environmental Quality (CEQ) criteria for a cooperating agency. For example, each County has jurisdiction with respect to local government resources and

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services (*e.g.* emergency, law enforcement, fire suppression, and search and rescue), land use, zoning, and transportation. 40 C.F.R. §1506.16. Wyoming law delegates to the counties broad authority to provide for the public health, safety, and welfare of the citizens, to conduct land use planning, zoning, and permitting for land activities within the boundaries of the county, and build and maintain a county road system. Wyo. Stat. Ann. § 18-5-201. Sweetwater County adopted a comprehensive plan in 2002 to establish land use policy for cities, unincorporated areas, and the federal lands. Wyo. Stat. Ann. §18-5-101. Both Lincoln and Sublette Counties have federal land policy plans that have been amended in the last few years.

The respective counties depend on a viable local economy to provide services including law enforcement, water and sewage, social and emergency services, and the necessary infrastructure for the county residents. Wyo. Stat. Ann. §§18-5-105; 18-2-108; Lincoln, Sublette and Sweetwater Counties also have land use plans in place that address the issues involved in developing public land resources and ensuring that federal land uses are consistent with local government plans, land use objectives and policies.

All of the CLG Counties have jurisdiction over the construction aspects of the project as they apply to buildings and roads. The Counties have authority to issue construction and building permits. Wyo. Stat. Ann. § 24-3-101. The gas field development will involve roads, construction sites, and related development on non-federal land. The Counties land use and zoning plans, programs, and policies provide important criteria for which the project must be consistent.

The Conservation Districts have a broad mandate to assist, promote, and protect public lands and natural resources, soil, water, and wildlife resources, to develop water and to prevent floods, to stabilize the ranching and agriculture industry, to protect the tax base, and to provide for the public safety, health, and welfare of the citizens. Wyo. Stat. §11-16-122. The Districts are charged with conserving, protecting, and developing these resources on all lands within the District, in cooperation with private landowners or state or federal land management agencies on private, state, and federal lands. State law also gives the Districts broad powers to accomplish their policies and mandates, through research and education, implementation of erosion control, water, and range projects with landowners, development of comprehensive plans, demonstration projects, providing financial and other assistance to landowners, management of flood control projects or lands under cooperative agreements with the United States, and adoption of rules and ordinances.

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The Conservation Districts also have jurisdiction over the impacts of the project. Wyo. Stat. §§11-16-101, 11-16-122. The districts are authorized to plan and to provide for soil, water, and vegetation conservation. The members of the respective districts are affected by the project, due to construction impacts and displacement. The districts have provided expertise on other natural gas projects to monitor water quality impacts and advise on reclamation.

2. **Special Expertise**

Even when a project is not within the jurisdiction of a local government agency, CEQ rules recognize that cooperating agency status is appropriate. In addition to cases when the local government agency has overlapping jurisdiction, it may be granted cooperating agency status when it has "special expertise with respect to reasonable alternatives or significant environmental, social or economic impacts. . ." 40 C.F.R. §1508.5; see also *CEQ Memorandum Designation of Non-Federal Agencies To Be Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act ("NEPA")* July 28, 1999; BLM A Desk Guide to Cooperating Agencies 2009 pp.8-10.

The local governments have significant expertise. The counties are well-versed in the local land use, water and air quality, transportation and economic issues. The conservation districts have significant natural resource management expertise including soils, vegetation, habitat, and the needs of the agriculture sector in this region. Moreover, Sublette CCD has monitored groundwater quality and actively participated in reclamation for other gas fields in the county.

II. **SCOPING COMMENTS**

1. **ADDITIONAL MITIGATION ISSUES**

BLM needs to document the mitigation measures and the basis that these measures will be sufficient to reduce any impacts to insignificance. An environmental assessment (EA) or EIS must have a reasonably thorough discussion of the effectiveness of mitigation measures. *National Wildlife Federation, et al.*, 150 IBLA 385, 396 (1999).

In addition to the issues identified in the scoping notice and discussed below, the EIS will need to address other mitigation measures and explain the basis for recommending them.

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a. On-Site Mitigation Preferred to Off-Site Mitigation

Off-site compensatory mitigation is voluntary and adopted only if BLM has determined that mitigation measures and onsite compensatory mitigation measures are not sufficient. BLM IM 2008-024 at 1 (“[O]ffsite mitigation may be used only when the BLM can demonstrate that the proposed mitigation is reasonably necessary to accomplish an authorized BLM purpose. When proposed offsite mitigation is geographically distant from the project area, and particularly when it occurs on non-Federal land, the connection to resources for which the BLM is responsible should be clear.)

The local governments support exploration of opportunities for onsite compensatory mitigation before going to offsite mitigation. Opportunities for onsite mitigation should be exhausted before off-site mitigation is considered and adopted.

Onsite or mitigation actions, such as improvement of wildlife habitat, will provide alternative habitat to wildlife as they are immediately displaced by pad construction drilling. There is a role for offsite mitigation but BLM should not be ignoring the opportunities onsite.

The local cooperators oppose both land purchases and easement acquisitions as mitigation due to the adverse impacts on the agriculture sector as well as the local tax base. CLG also opposes the acquisition of livestock grazing preference or grazing permits that will also remove livestock grazing and viable ranch operations from the public lands. One alternative is to compensate ranchers for their management on private lands that benefits wildlife and protects wildlife habitat.

The 2008 EA mitigation measures were limited to the purchase of agriculture lands or interests in the land without considering the adverse impacts on the counties' tax base, the loss of agriculture operations, and the long-term impacts to the communities. Each of the local governments land use plans and policies include the preservation of agriculture. Land acquisition mitigation that only considers eliminating the current land uses and diminishing the property tax base for the counties contradicts the plans and policies and does not directly compensate for the project's impacts. The EIS must examine other alternatives, including BLM commitment to candidate conservation agreement and special management actions on public lands within and adjacent to the project area.

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Compensatory mitigation should also be coordinated with the local governments, because the development of replacement resources will directly affect land uses on and off public lands. Any off-site compensatory mitigation should not result in the loss of private land or interests within the affected counties. It should not be limited to impacts on wildlife habitat or wildlife.

BLM guidelines also provide that such proposals must be analyzed in the NEPA process to identify what are being mitigating and the type of projects.

b. Post-Decision Coordination with Local Governments and Landowners

Mitigation should also include close coordination with local governments. These steps are required by the BLM cultural resources policies, H-8140-1. Similar to what CLG has recommended for Creston-Continental Divide, Moxa Arch and Hiawatha, BLM should provide for an annual planning meeting with the Operator, BLM, local cooperating agencies and affected livestock operators. An annual report should also be submitted by the Operator on reclamation status.

CLG members recommend that the project adopt a coordination committee consisting of the Operator, BLM, county and conservation districts plus affected landowners that will meet regularly to address these issues. Advance notice and planning will alleviate some of the surprises as well as improve services.

2. INCREASED TRAFFIC AND COORDINATION WITH COUNTY GOVERNMENTS

a. Coordination with Local Governments

CLG members support the NOI issue of analyzing and disclosing the impacts on traffic and county road systems. Coordination with the county road departments needs to be a condition of the development plan.

The project needs to have a Transportation Plan and its development should be closely coordinated with the local governments and integrated into the county road system. To date, BLM has not facilitated coordination on the basis that travel outside of the project area had no bearing on the EIS. As explained in CLG comments on PAPA and the Pinedale RMP, there is little direct funding to the county to address these road impacts. Moreover, BLM imposes seasonal restrictions on road maintenance and gravel mining, thereby further burdening county road departments and limiting road maintenance.

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While the roads are located outside the project and are public roads, the indirect and cumulative impacts should be discussed and mitigated.

Development will also have potentially significant impacts on county services and road capacity. The EIS needs to identify the regional transportation system of state and county roads, and subsequently address the impacts to the county road system and maintenance. Operators and BLM need to coordinate with the affected Counties and provide for mitigation. Historically, there has been relatively little coordination with local governments, especially with respect to the impacts that occur outside of public lands. Thus, BLM decisions leave county resources stretched to provide transportation facilities, services, and to compensate for the indirect and cumulative impacts.

b. Multi-County Impacts

The EIS needs to recognize that the road impacts occur outside of the county where the field is located. Lincoln and Sweetwater Counties face equally significant impacts because the equipment, contractors and employees will use the public roads in these counties to reach the field sites. The increased use and traffic may exceed the levels of service for which they were designed. If road uses exceed the levels of service, CLG members anticipate increased rates of accidents and more road congestion that leads to more pollution. Degraded roads also increase runoff and nonpoint source water pollution.

The 2008 proposed action assumed that special arrangements would be made with the Wyoming Department of Transportation and the affected County to transport oversize loads to the project area. Otherwise, load limits would be observed at all times to prevent damage to existing road surfaces.

There will also be additional impacts on road systems outside of the project area that should be addressed. Specifically, much of the equipment and supplies are trucked in from Sweetwater County and employees commute from towns in both Lincoln and Sweetwater Counties. This puts pressure on existing state and county roads. CLG members recommend that routes between Jonah and South Jonah be built.

c. Funding Shortfalls

The State of Wyoming does not distribute half of its oil and gas revenues to the local governments, which is the case in neighboring states of Colorado and Utah. While the

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2011 legislature authorized road impact funds, none applied to the counties likely to be affected by this project. Therefore, the EIS needs to consider the number of trips, miles and duration as an indirect effect of the project and impact that should be mitigated as well. The EIS must also consider the transportation budget impacts for the affected counties.

Operators should also compensate counties for increased levels of use and damage or wear and tear above normal levels to system. While county roads are open to the public, the respective roads departments need to be able to anticipate and deal with the additional impacts, especially when there is a significant increase in both the size and weight of vehicles. The local governments often face significant increases in road maintenance costs without direct funding to cover the work needed. While recent legislation allocated funding to counties, it does not include future programs.

d. Reduce Miles Traveled

CLG members recommend that the operator and BLM consider the most direct routes west and north. The 2008 proposed action would have assigned a circuitous route with more miles on Federal, state and county roads, and running through two towns; Marbleton and Pinedale. This heavy truck traffic adds to roads that already exceed their levels of service, adds to congestion in communities, and contributes to air pollution. A more direct route between South Jonah and Jonah Field would facilitate reduced air pollution impacts.

e. Reduce Pollution With Better Standard of Roads

Road maintenance and costs need to reflect the life of road. CLG members note that low-standard roads cause more particulates in the air and soil erosion. BLM should consider the option of upgrading the roads that will remain in service over the life of the project.

BLM should also provide for the option of surfacing roads that will be used for the life of the project to reduce dust and soil erosion.

The seasonal restrictions also mean that construction traffic overlaps with tourism, with resulting congestion, traffic jams, and certainly harm to the aesthetics of the visitor experience.

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f. Reclamation and Road Closures

BLM must consult with the counties about road closure decisions. The BLM practice of using OHV closures made in land use plan decisions to effect *de facto* closures for existing roads and trails should end. Certainly, reclamation direction must respect county roads and also reflect ongoing access needs.

In the 2008 EA, BLM proposed to close all new and improved roads not required for routine operation and maintenance of producing wells or ancillary facilities would be reclaimed. This should not occur unless the State Land Board or private landowner consents and the road is not needed by the County.

Reclamation of existing two-track roads would be considered on a case-by-case basis. CLG members note that in many cases the roads serve other uses, such as grazing permit or recreation access. While the BLM has issued a right-of-way over the road for the lessee, any decision to reclaim the road should be made only after consultation with the counties and affected land users.

The EIS needs to identify the projected locations of proposed new and upgraded roads. Otherwise the EIS will not adequately address the Project's transportation related impacts. BLM should also include a more detailed discussion on exporting produced water.

The EIS needs to disclose that the levels of use for many of the area roads and those that are at or beyond what is considered safe. Highway 191, for example, is currently being upgraded because of the increased traffic. The EIS should include a level of service study for roads, especially the route between Jonah and South Jonah and then identify mitigation.

3. **SOCIAL AND ECONOMIC IMPACTS**

Agriculture, forestry, fishing and hunting, and mining are the dominant industrial category categories of employment in the Sweetwater County, with 21.9% of the workforce. The EIS needs to use updated census data. Even though most of the United States is struggling to recover from the 2008 crash, Wyoming reports a 2.1% growth. May 17, 2011 *Casper Star Tribune*.

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The revenues received by local government are limited to sales tax with the vast majority of the project revenues being paid to the state.

The discussion of severance taxes and federal mineral royalties should describe the statutory allocation of these revenues in Wyoming, particularly the limited amounts of revenue that directly flow to city and counties from the federal royalties and rent payments. The state dedicated funds to assist the local government entities are limited to capital projects and school children, thus not providing funding for the broader range of local government services. This is a critical point for local governments that many BLM NEPA documents do not accurately reflect. Many of the natural gas workers will be temporary, due to seasonal restrictions and weather, thus also affecting the communities.

Counties also do not receive a direct share of Wyoming severance tax revenues which are statutorily dedicated. If no additional employees, then no additional sales tax or lodging tax revenues.

If there is no change in the number of employees, as originally proposed, then housing or rental income will not show economic gains. If the project does involve additional or new employees, then the EIS needs to address the pressure on other county housing and motels. Tourism is also an important part of the local economy. When the construction season occurs during the summer peak tourism season, then construction will displace tourists since there are a finite number of hotel and motel rooms and space in the restaurants.

Operator tax payments do not increase due to road impacts caused by the project, nor are operator taxes paid to local governments. Taxes are paid to the state and are not returned to the affected county on any direct or proportional basis.

4. WATER IMPACTS: SURFACE WATER AND GROUND WATER

a. Consider In-field Disposal

The EIS should provide for in-field water disposal, in order to reduce traffic and decrease disposal on more sensitive lands. Trucking produced water to offsite locations will require hundreds of trips a month. If the former circuitous route between Jonah and South Jonah were to be used, even more miles are involved.

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BLM should explain the source and distance of the water to be trucked both to and from the drilling sites. The EIS should also discuss the alternative of allowing the water to be evaporated in the field rather than removal by tanker trucks and the reasons that this option is not considered.

b. Water Sources and Water Quality Monitoring

The EIS needs to identify water wells and springs that may be affected by water used for drilling operations. The grazing allotments depend on these springs which may be affected if water is taken from shallow aquifers. If the water modeling shows no impact then the EIS should so state.

The EIS should also provide for groundwater monitoring similar to the Pinedale Anticline Natural Gas Exploration and Development Project. The SCCD in conjunction with WDEQ and BLM developed and has conducted the water quality monitoring program in the PAPA. Water production must be limited to not interfere with livestock and existing springs that also provide domestic water and water for wildlife.

The EIS should incorporate by reference the WDEQ nonpoint source best management practices.

c. Specific Identification of Wetlands

The area proposed for drilling in 2008 did not have wetlands as that term is used in 2007 EPA guidance and Supreme Court decisions. Section 404 permits do not apply to ephemeral or intermittent waters that lack a close nexus to interstate waters.

5. AIR QUALITY

Wyoming DEQ and the counties continue to work through the causal factors for the Sublette County exceedances of NO_x and volatile organic chemicals (VOCs), which are ozone precursors. The EIS must properly address the issues and the new information being developed by Wyoming DEQ and the regional air quality modeling.

Air quality mitigation needs to distinguish among the air pollutants, such as particulates and ozone precursors of NO_x and VOCs. Mitigation for each is quite different. The EIS must quantify how equipment modifications will reduce NO_x and VOC emissions and not contribute to potential exceedances for ozone or other air pollutants.

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The EIS must also identify the other sources of air pollutants, such as wildfires, wood burning fireplaces, and the like that contribute to air quality degradation.

6. **RECLAMATION INCLUDING INVASIVE SPECIES MANAGEMENT AND SURFACE DISTURBANCE**

Reclamation success can be very difficult to achieve in a cold desert environment. The difficulty in successful reclamation is further complicated by the frequent or persistent drought cycles and saline soils. Performance-based, as opposed to prescriptive standards, allow the Operators to adapt operations to the variability of soils, precipitation, and vegetation found in the project area. The standards should be defined for the affected biological and physical resources, as well as potentially conflicting land uses. CLG recommends that the project establish performance-based standards that focus on site stabilization within the first year, with interim revegetation, and final reclamation with native species. Reclamation needs to be tailored to site activity, site capability, and adapt to what works.

a. **Minimizing Surface Disturbance**

The EIS should consider the alternative of above-ground pipelines to reduce surface disturbance. Alternatively, CLG recommends ripping in pipelines where possible to limit surface disturbance. Either method reduces surface disturbance and reclamation issues.

b. **Immediate Stabilization of Sites**

BLM should provide for immediate site stabilization based on onsite soil analysis, weather, slope and slope aspect. Straw, wood chips and jute mats should be used.

Erosion and sedimentation would be controlled by promptly stabilizing and revegetating the areas around the well pads in the fall or spring season following completion, and by providing surface water drainage controls, such as berms, sediment collection traps, diversion ditches, and erosion stops, as needed.

c. **Interim Reclamation**

Interim Reclamation should be in close coordination with BLM, the local cooperating agencies, and any affected livestock grazing permittees or landowners. Disturbed areas

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not needed for long-term production operations or vehicle travel should be reclaimed after production facilities are completed with a self-sustaining, vigorous, diverse, native or otherwise approved plant community sufficient to minimize visual impacts, provide forage, stabilize soils, facilitate capture of rainfall and snow and reduce runoff, and impede the invasion of noxious weeds and ensure establishment of natural plant community.

d. Seed Mixes and Ensuring Revegetation

BLM should secure the approval of the respective Conservation Districts as to seed mixtures. The local government cooperators have a stake in the outcome of reclamation as a whole. The alternatives should provide for the involvement of the local cooperating agencies in reclamation.

Because native seed mixes are less successful, CLG recommends other techniques including mulching, initial irrigation, and sterile nonnative and native seed mixes to stabilize the soil and establish an environment suitable for native plants to grow. CLG recommends allowing for the use of desirable but sterile plant species to stabilize the site during interim reclamation and allow native plants to become established. To stabilize a site, the Operator should be able to use a mix of native and sterile seed mixes. Native species tend to be very slow and difficult to establish and during the several years required, noxious weeds or invasive plant species can become established. The noxious weeds cannot be chemically treated without also killing the native plants. CLG members note that native and non-native seed mixes used to good effect on drill sites on the Bridger-Teton National Forest. The native only reclaimed areas took longer to be restored.

Native seed mixes often fail to survive or re-establish strongly. CLG recommends that the EIS provide for other techniques including mulching, initial irrigation, and sterile nonnative and native seed mixes to stabilize the soil and establish an environment suitable for native plants to become established.

e. Importance of Soil Surveys to Reclamation Success

A site soil analysis should precede soil removal to determine the proper amount to be removed.

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The EIS should also provide that if construction operations allow, Operators would use topsoil live haul, which is the direct placement of freshly salvaged (not stockpiled) topsoil onto graded overburden in another area of operation. Live-haul of salvaged soil eliminates the problems of stockpiling. Consequently, deteriorating fertility, micro-flora, and seed viability are avoided.

f. Controlling Invasive Species

The EIS should recognize that because of its toxicity to sheep and other livestock, the spread of halogeton will significantly impact livestock forage in the Project Area and is not consistent with rangeland health objectives. Livestock can sicken and die from eating halogeton. Halogeton is invasive and will interfere with reclamation success and expand to undisturbed areas as well.

A project-wide weed plan should be developed that would specify actions to prevent the spread of and guide the control of noxious weeds and invasive plants.

7. **LIVESTOCK IMPACTS TO BE MITIGATED**

a. Enhancement of Vegetation & Projects

Vegetation enhancement and vegetation projects should be part of the on-site and off-site mitigation. There is a backlog of such projects awaiting funding and approval.

As mitigation for temporary loss of AUMs, Operators should agree to support vegetation and forage enhancement to improve range productivity.

b. Development Is a Significant Factor in Not Meeting or Maintaining Wyoming Standards for Healthy rangelands

To the extent that oil and gas operations will prevent realization of management objectives, BLM must recognize that natural gas development is a primary causal factor in the allotment not meeting or maintaining the Wyoming Standards for Healthy Rangelands. Operators must agree to be responsible for corrective actions. BLM cannot reduce grazing permits or impose other onerous penalties on livestock operators, if gas field operations result in the allotment failing meet or maintain rangeland health.

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c. Operational Impacts

Operators should also agree to coordinate hauling with affected livestock grazing permittees and landowners, to reduce livestock collisions. Operators should further agree to compensate livestock operators for livestock fatalities at replacement cost, as opposed to market cost.

Operators should agree to support vegetation and forage enhancement to improve range productivity and to provide forage replacement for areas where grazing is reduced or removed.

Irrigation of hay meadows are critical to the continued ranching in the project area. This should be allowed to continue. If meadows are developed, the Operators should provide replacement meadows.

In addition, livestock crossing signs should be placed in the area to make sure the drivers are aware that the area is open range and that they are in active grazing allotments. Speeds should be reduced to a level appropriate for travel within grazing allotments.

d. Coordination

BLM should also provide that the annual planning meetings (and more as needed) will include the Operators, BLM, affected livestock grazing permittees, landowners, and the local cooperating agencies, and that such meetings will address other resource issues such as livestock grazing, reclamation, transportation, and the development plan for the coming year.

Operators should agree to plan and adjust for situations when reclamation is not working and where there are other resource conflicts

There must be aggressive control of noxious weeds, especially halogeton.

The proposed action will directly affect some grazing allotments in the core drilling areas. The EIS needs to address the direct impacts on these operations and well as on the other allotments that will be affected to a lesser extent.

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The livestock grazing discussion should also identify stock driveways used to move sheep and cattle through the Project Area and in the vicinity of the Project Area. It also needs to identify other critical areas, such as sources of water, calving / lambing areas (if applicable), and planned range improvement projects that may be affected adversely. There should also be a column reflecting federal / state/ private land ratio.

During the operational and reclamation phases of the proposed project, BLM and Operators need to effectively consult and coordinate with the affected livestock operators and the Districts to address appropriate on-site well and road reclamation. Coordination on noxious weed control and any wildlife habitat and livestock mitigation should also occur, as appropriate. The Districts' expertise will help to overcome previous problems encountered in other gas fields. This is not possible if the local governments, including the Districts, are excluded from post-decision implementation of reclamation and mitigation.

The EIS's impact discussion should also disclose and mitigate well pad, pipeline, and road construction, which removes vegetation on sites where permittees and BLM cooperated on vegetation projects which were already implemented to improve forage. Other work may interfere with or compromise livestock water projects and springs.

8. ASSESSING AND MITIGATING CULTURAL RESOURCE IMPACTS

If sites or trails have been obscured or are invisible, then they should not be included in the assessment. National Park Service, *How to Apply the National Register Criteria for Evaluation*, National Register Bulletin No. 51 p. 46 (1995), (NRB #51) (a protected site must retain its original character to meet the integrity criteria).

9. MANAGEMENT OF WILDLIFE HABITAT AND POPULATIONS

Discuss new antelope studies and ongoing deer migration work.

10. SAGE GROUSE ISSUES

The EIS must also address the proposed action's impacts on sage grouse. BLM needs to adequately explain how the project's sage grouse protection measures are sufficient, especially in light of the recent litigation settlement in which DOI committed to either listing or making an unwarranted determination by 2012.

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The EIS should disclose and analyze whether the proposed action will conform to the current sage grouse management guidelines.

The EIS discuss or identify sage grouse populations or population trends.

To what extent is the proposed action consistent with pending candidate conservation agreements.

11. ADDITIONAL ENDANGERED SPECIES ISSUES INCLUDING WATER DEPLETIONS

Before concluding there is a depletion issue, BLM must document water use by aquifer and connection of the affected aquifers to the Green River system. If the proposed action uses water released by drilling, which is nonpotable and reuses the produced water, then depletion is not an issue, unless BLM can show the aquifer is directly related. In most, if not all, cases this would not be the case. Thus, the use of the water in the proposed action is clearly not subject to depletion limits.

The EIS must address the wolf management and impacts, if any, on the wolf.

12. IMPACTS TO LANDS WITH ALLEGED WILDERNESS CHARACTER

The NOI states in part:

An updated inventory of lands with wilderness characteristics will be utilized to comply with Secretarial Order 3310. Federal, State, and local agencies, along with other stakeholders interested in or affected by the BLM's decision on this project are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate as a cooperating agency.

Pursuant to Section 1769 of the Appropriations Act for the Department of Defense and the other departments and agencies of the Government for the fiscal year ending September 30, 2011, and for other purposes., Pub. L. 112-10, BLM lacks any authority to implement Secretarial Order 3310 including assessing the impacts on lands said to have wilderness character. BLM has no legal authority to manage public lands outside of wilderness study areas (WSAs) as if they were WSAs.

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None of the affected lands meet the legal criteria of wilderness. Wilderness was not raised in the Pinedale RMP process nor was this area identified by the wilderness proponents in their nominations for Master Lease Planning.

To the extent that this has been an issue previously, CLG members believe it is apparent that the area to be developed lacks wilderness character and this issue should be summarily dismissed.

13. CUMULATIVE EFFECTS OF SIMILAR ACTIONS, WITHIN SAME GEOGRAPHICAL AREA AND TIME FRAME

The EIS also needs to specifically identify the cumulative effects area for the project by major resources, air shed, wildlife habitats, hydrology, soils, and the social-economic area. The Pinedale RMP FEIS and maps provide useful guidance and could be incorporated.

The extent of energy development in the affected Sublette, Lincoln, and Sweetwater Counties suggests that there may be significant cumulative effects. The EIS needs to include planned projects such as the Hiawatha Regional Infill Development, and more modestly sized projects that are being evaluated in EAs.

14. POSSIBLE CONFLICTS WITH RECREATION ACTIVITIES

The EIS should incorporate the FEIS discussion about recreation use. Area previously has had OHV use but the Pinedale RMP closes most of the resource area to OHV use except on existing trails. The RMP did not identify which trails or roads were closed but postponed the decision to a travel management plan. These OHV closures which apparently included snowmobiling removed a significant recreation component from the affected public lands.

Hunting may also be affected by the operations, in terms of access and impacts on big game species. Due to reduced motorized access, however, it is not clear that natural gas development will be the conflict with recreation.

15. INCORPORATION OF RELATED NEPA DOCUMENTS

BLM can tier from or incorporate by reference the analysis done in another environmental impact statement (EIS) or EA, when that analysis applies, such as to

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similar actions and similar effects. BLM NEPA Handbook H-1790-1 at 25-27. The EIS should incorporate by reference the analysis that it used in the Jonah Infill Development Project (Jonah) FEIS, (2006), Pinedale RMP FEIS (2008), and the Pinedale Anticline Supplemental EIS (2008).

When BLM relies on other NEPA documents, it must specifically incorporate them by reference. 50 C.F.R. §1500.4(j). *Biodiversity Conservation Alliance*, 171 IBLA 218, 227 (2007). In *Biodiversity Conservation Alliance*, the Board held that an EIS complied with NEPA for approval of 120 wells in a coalbed gas project in Wyoming. *Id.* at 229. The Board found that BLM properly used the tiered EIS approach to incorporate by reference previous environmental analysis and fully addressed the cumulative impacts. *See also Biodiversity Conservation Alliance*, 169 IBLA 321, 331 (2006), citing *Friends of the Nestucca*, 144 IBLA 341, 358 (1998).

16. RANGE OF ALTERNATIVES

Section 102(2)(E) of NEPA requires BLM to consider, in an EA, "appropriate alternatives" to the proposed action, as well as their environmental consequences. 42 U.S.C. §4332(2)(E) (2000); *see* 40 C.F.R. §§1501.2(c) and 1508.9(b); *City of Aurora v. Hunt*, 749 F.2d 1457, 1466 (10th Cir. 1984); *Bales Ranch, Inc.*, 151 IBLA 353, 363 (2000). Such alternatives should include reasonable alternatives to the proposed action, which will accomplish its intended purpose, are technically and economically feasible, and yet have a lesser or no impact. 40 C.F.R. §1500.2(e); *Bales Ranch, Inc.*, 151 IBLA at 363, and cases cited therein. Consideration of alternatives ensures that the decision maker "has before him and takes into proper account all possible approaches to a particular project." *Calvert Cliffs' Coordinating Committee, Inc. v. U.S. Atomic Energy Commission*, 449 F.2d 1109, 1114 (D.C. Cir. 1971).

The EIS may need to analyze an alternative drilling plan with less environmental impact. Any preferred alternative, if it differs from the proposed action, must meet the operators' needs as well.

The alternatives to be developed need to conform to the Purpose and Need or the proposed action in this case. In particular, any alternatives need to be technically feasible, avoid wasting the natural gas resource, and maximize revenue to the United States. Thus, 'postponing' some lease development, which would reduce revenues or threaten natural gas recovery, would not be meet the Purpose and Need of the proposed action.

Kellie Roadifer

May 18, 2011

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Thank you for the opportunity to identify these scoping issues. We look forward to working with the BLM on this project.

Sincerely,

/s/ Kent Connelly

Kent Connelly, Chairman

Coalition of Local Governments

cc: Honorable Mike Enzi
Honorable John Barrasso
Honorable Cynthia Lummis
Jason Fearneyhough, Wyoming Department of Agriculture