



July 31, 2015

John Smeins
RMP/EIS Team Lead, Royal Gorge Field Office
Bureau of Land Management
3028 East Main Street
Cañon City, CO 81212

Re: Eastern Colorado Resource Management Plan and an Associated Environmental Impact Statement for the Royal Gorge Field Office, Colorado

Dear Mr. Smeins:

Western Energy Alliance strongly supports public lands management that is based on multiple use and sustained yield. As the Royal Gorge Field Office begins to prepare its Resource Management Plan (RMP) and the associated Environmental Impact Statement (EIS), Western Energy Alliance urges BLM to recognize that oil and natural gas resources are vital to our nation's energy security and allow for the fullest development of natural gas and oil resources in the planning area.

Western Energy Alliance represents over 450 members involved in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees. Western Energy Alliance is committed to responsible oil and natural gas development that protects environmental resources, minimizes surface use impacts and contributes to the local and state economy.

Our members have a vested interest in decisions made by BLM for the Royal Gorge planning area as they affect valid existing oil and natural gas lease rights and future exploration and development activities.

Statutory Framework

When the Federal Land Policy and Management Act (FLPMA) was enacted in 1976, Congress declared that "the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals."¹ It is therefore the "continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in...the orderly and economic development of domestic mineral resources."²

¹ 43 U.S.C. §1701(a)(12)

² 30 U.S.C. §21a

FLPMA dedicated the public lands to multiple use and sustained yield, and identified mineral exploration and development as one of the principle uses.³ Congress also directed the president to encourage federal agencies to “facilitate availability and development of domestic resources to meet critical material needs.”⁴

Domestic oil and natural gas resource development is a legitimate use of public lands which can and is being done in an environmentally responsible manner. Throughout the development of an RMP and associated EIS, BLM must consider Executive Order 13212 – Actions to Expedite Energy-Related Projects (2001). In the Executive Order, the President directs federal agencies to evaluate current programs, policies and rules, and to reduce barriers to America’s energy self-sufficiency. BLM must also follow the requirements of the Energy Policy Conservation Act of 2000 and the Energy Policy Act of 2005 (EPAAct) to reduce rather than increase impediments to federal oil and gas leasing.

Section 363 of the EPAAct addressed these impediments by requiring BLM to enter into a Memorandum of Understanding (MOU) with the U.S. Forest Service that documented procedures to ensure consultation between agencies regarding oil and natural gas leasing on public lands. Congress further required the MOU to include a provision that lease stipulations are “only as restrictive as necessary to protect the resource for which the stipulations are provided.”⁵

Accordingly, BLM’s Manual on Land Use Planning specifically states that “[w]hen applying leasing restrictions, the least restrictive constraint to meet the resource protection objective should be used.”⁶ We urge BLM to observe this statutory mandate and regulatory guidance as it considers any stipulations for oil and natural gas leases, especially with regard to timing limitations, No Surface Occupancy (NSO) stipulations, and seasonal restrictions. As NSO is the most restrictive stipulation, it should be used only sparingly.

Taken together, this statutory framework should serve as clear guidance for BLM in evaluating which lands are available for oil and natural gas leasing and under what conditions. The RMP/EIS should reflect federal law and policy and the nation’s need for secure sources of domestic energy. The RMP/EIS must also acknowledge that oil and natural gas resources are developed in an environmentally responsible manner while providing the nation with an abundant source of affordable energy. Finally, BLM has a congressionally mandated multiple-use mission, which must be honored and not compromised by the single-use land management objectives promoted by certain single interest groups.

³ 43 U.S.C. §1702(c),(l)

⁴ 30 U.S.C. § 1602(7)

⁵ 42 U.S.C. § 15922(b)(3)(C)

⁶ BLM Handbook H-1601-1, App. C. II. H. at 24.

Valid Existing Rights

We strongly urge BLM to explicitly recognize valid existing rights as it moves forward with its analysis. The Mineral Leasing Act, FLPMA, and BLM's own Planning Handbook all expressly limit the agency's authority to impose mitigation measures that would exceed the terms and conditions of previously issued leases. Operators retain the right to develop their leases in accordance with the terms under which they were issued, and BLM must ensure that any proposed management would not infringe on those rights.

Wildlife

Colorado currently regulates the impacts of oil and natural gas development on wildlife under the 1200 Series rules regarding Protection of Wildlife Resources. These rules require the preparation of a Comprehensive Drilling Plan for each proposed drilling location and consultation with experts at Colorado Parks and Wildlife (CPW) in order to avoid, minimize, or mitigate adverse impacts on wildlife resources. CPW may then impose conditions of approval for any operation based on best management practices promulgated by the state.

Colorado's 1200 Series regulations provide reasonable and appropriate protections for wildlife resources. BLM should defer to the state's rules and not impose any duplicative or burdensome mechanism for wildlife protection.

Besides the fact that daily operations follow Colorado's 1200 series regulations and comply with the Endangered Species Act to protect wildlife, the western oil and natural gas industry has a rich legacy of improving wildlife habitat in the areas where it is developing energy resources. Our members work cooperatively with BLM, CPW, and wildlife conservation groups to improve wildlife habitat and reduce the impact of development on the environment. Companies take their stewardship responsibilities seriously and over the years have voluntarily taken on many projects to improve habitat throughout the West. BLM should recognize these efforts and their positive impact on wildlife species during development of the RMP/EIS.

Disturbance and Multiple Use

Western Energy Alliance supports BLM's multiple-use mandate, and where energy production exists public lands are also available for other uses such as recreation, ranching, farming and hunting. By its nature, multiple-use engenders coexistence, not competition. We can develop the energy on public lands that all Americans own while protecting the land, wildlife, air, water, cultural and other resources.

Each year, improvements in technology reduce the footprint of oil and natural gas development, and reclamation techniques continue to improve so that the impact to the land is small and temporary. Over the last decade, oil and gas development has shifted from vertical wells with dense well-pad spacing to directional and horizontal wells with

significantly less disturbance and fragmentation per section of land developed. One horizontal well now takes the place of 8 to 16 vertical wells, leading to reductions in well pad disturbances, linear disturbances, and disturbances due to human activity.⁷ In 2012, the disturbance reduction resulting from this dramatic shift in drilling technology may have approached approximately 70 percent in Wyoming alone.⁸

After a well is drilled and completed, which usually takes just a few weeks to months, depending on how many wells are clustered on a pad, interim reclamation occurs and the surrounding land remains available for recreational and agricultural purposes. Once wells are plugged and abandoned and final reclamation occurs, the disturbance to the land is barely discernable, if at all.

Ultimately, the impacts of developing vital energy resources are temporary, and oil and natural gas development can and does coexist with other multiple uses. BLM should recognize these facts and not preclude an excessive amount of land from oil and natural gas leasing.

Reasonable Foreseeable Development

In March 2012, the Royal Gorge Field Office released its Reasonable Foreseeable Development (RFD) Scenario for Oil and Gas for the period from 2011 to 2030. However, it is based on outdated data and geological scenarios that do not account for how major advances in drilling and hydraulic fracturing technologies have opened up significant new resources, and significantly underestimates the oil and natural gas potential in the planning area.

The RFD Scenario is a critical component of the RMP, as it serves as the analytical baseline for identifying and quantifying direct, indirect, and cumulative impacts of oil and natural gas development. The RFD provides the premise for formulating alternatives and mitigation strategies for an RMP and serves as a baseline scenario assuming all potentially productive areas can be open under standard lease terms and conditions.

Because of the clear importance of the RFD in the formation of an RMP, BLM policy requires it to be “based on a reasonable, technical, and scientific estimate of anticipated oil and gas activity based on the best available information and data at the time of the study.”⁹ The current Royal Gorge RFD does not uphold this standard and must be updated to reflect realistic exploration and development potential within the planning area. Western Energy Alliance is more than willing to assist with this update in order to provide the most up-to-date information possible for the RFD.

⁷ *Oil & Gas Impacts on Wyoming's Sage-Grouse: Summarizing the Past & Predicting the Foreseeable Future, 8 Human-Wildlife Interactions*, David H. Applegate & Nicholas L. Owens, Fall 2014, 288.

⁸ *Id.* at 289

⁹ BLM IM 2004-089, Attachment 1-3

South Park Master Leasing Plan

Western Energy Alliance participated in the South Park MLP Stakeholders Workshops from October 2014 through February 2015 facilitated by the Keystone Center. As the final report concludes, the process was valuable for gathering multiple stakeholders together and exchanging ideas and information. We would emphasize the report's conclusion that consensus was not achieved and the information provided does not constitute a finished proposal, but rather ideas and information that BLM should consider as part of the planning process.¹⁰ We advise caution on some of the water proposals presented in the report, such as NSO, as they are redundant with existing laws and regulation. In general we are supportive of state regulation of water resources, as Colorado owns and regulates the water within its borders, but expansion of the Colorado Oil and Gas Conservation Commission's rule 317B may be inappropriate, depending on how it is approached.

Western Energy Alliance opposes the removal of acreage from leasing or the imposition of NSO restrictions on BLM lands bordering the James Mark Jones State Wildlife Refuge through the proposed South Park Master Leasing Plan (MLP). BLM previously inventoried this area in 2013 and determined it was too small to qualify as Lands with Wilderness Characteristics, thus removing the justification for NSO restrictions or a complete prohibition on oil and natural gas leasing.¹¹ The area's natural resources can be protected with standard leasing stipulations and existing state and federal regulations.

In many instances, areas inventoried as Lands with Wilderness Characteristics (LWC) may lie adjacent to state and private lands and existing federal leases. In many cases, resources may be accessed through the use of directional or horizontal drilling, although much of the resource may not be accessible because it is outside the reach of offset drilling, whether because of the physical limitations of the technology or for geological reasons. But even more fundamentally, BLM, at the behest of groups that advocate against multiple uses of federal lands, has tended throughout the West to extend wilderness-like protections to lands that only marginally meet, if at all, qualifications for wilderness. LWC designations will continue to place energy resources off limits, when the designations are in fact not necessary.

Lands with prior and even active oil and natural gas activity have routinely been proposed for wilderness-like protection as LWCs. The fact that lands with prior activity can be considered so pristine that they qualify for wilderness-like protection provides further proof that oil and natural gas development and production leave a small and temporary impact on the land. Modern reclamation techniques are so successful that BLM does not need to continually place more and more lands off-limits to leasing. We can both develop domestic energy and protect the landscape; they are not mutually exclusive uses of the land.

¹⁰ *South Park Master Leasing Plan Stakeholders Workshops, October 2014 through February 2015, Final Report*, the Keystone Center, March 2015.

¹¹ *Reinecker Ridge Inventory*, BLM, Front Range District/ Royal Gorge Field Office.

Socio-Economic Considerations

Domestic oil and natural gas development is vital to Colorado's economy, providing \$1.1 billion in revenues to the state and local governments that support roads, schools, public safety and other critical services. The oil and natural gas industry provides \$29 billion in annual economic impact and supports 111,000 jobs.¹²

Under FLPMA, BLM is required to integrate social science and economic information in the preparation of land use planning decisions. Specifically, FLMPA requires that BLM "estimate and display the physical, biological, economic, and social effects of implementing each alternative considered in detail."¹³ BLM's Land Use Planning Handbook incorporates this requirement by directing BLM to analyze demographic, economic, social, and fiscal conditions, as well as the impacts to conditions and trends associated with the alternatives to be addressed.

The RMP/EIS must include an accurate and timely socio-economic analysis that takes into account the economic benefits of oil and natural gas development discussed above. This analysis should include the potential value of oil and natural gas sales, royalty revenues, tax revenues and wages generated by the increase or decrease in production that results from each alternative. Western Energy Alliance is more than willing to assist with these analyses in order to provide the most accurate information for consideration in the RMP/EIS.

Conclusion

Environmentally responsible development of oil and natural gas in the Royal Gorge planning area will provide significant benefits to local communities, the state, and the nation. To successfully develop energy in the area, BLM establish reasonable multiple-use alternatives that will provide for development of oil and natural gas and minimize impacts on wildlife, plants, and recreational interests. We appreciate this opportunity to provide comments during this scoping process. Please do not hesitate to contact me should you have questions about our recommendations.

Sincerely,



Kathleen M. Sgamma
Vice President of Government & Public Affairs

¹² "Assessment Of Oil And Gas Industry Economic And Fiscal Impacts In Colorado In 2012" Business Research Division, CU Boulder – August 2013

¹³ 43 C.F.R. § 1610.4-6